



REDACTED PUBLIC VERSION
DATED: September 28, 2022

Exhibit E

From: Wilson, Bradley R. <BRWilson@wlrk.com>
Sent: Tuesday, July 26, 2022 8:59 AM
To: Kathryn Bonacorsi
Cc: Emily Kapur; Andrew J. Rossman; Alex Spiro; Christopher Kercher; Silpa Maruri; Matthew Fox; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP); Rosenello, Lauren N; Shannon, Kevin R. (Potter Anderson & Corroon LLP); Kelly, Christopher N. (Potter Anderson & Corroon LLP); Savitt, William D.; Eddy, Sarah K.; McLeod, Ryan A.; Reddy, Anitha; Yavitz, Noah B.; Goodman, Adam L.; Sadinsky, Alexandra P.; Slight, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC); Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC)
Subject: RE: Twitter v. Musk
Attachments: Plaintiff's Initial Proposed Search Protocol (July 26, 2022).pdf

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

We attach Twitter's initial proposed search protocol.

We are available to meet and confer at 4:30 p.m. EDT. If that time still works for defendants, we will send a dial-in.

Regards,
Brad

From: Wilson, Bradley R.
Sent: Tuesday, July 26, 2022 10:58 AM
To: 'Kathryn Bonacorsi' <kathrynbacorsi@quinnemanuel.com>
Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SEddy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBYavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slight, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; 'Sorrels, Brad' <bsorrels@wsgr.com>
Subject: RE: Twitter v. Musk

Counsel,

We likewise plan to exchange initial proposed search protocols at 12 p.m. EDT.

We are checking calendars on our side and will revert soon with our availability for the meet-and-confer you have requested.

Regards,
Brad

From: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>

Sent: Monday, July 25, 2022 10:02 PM

To: Wilson, Bradley R. <BRWilson@wlrk.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>

Subject: RE: Twitter v. Musk

*** EXTERNAL EMAIL ***

Brad:

I am confirming that we will exchange initial search terms and custodians tomorrow at noon EST. Please let us know when you are available for a meet and confer to discuss after 4pm ET.

Thanks,
Kate

From: Wilson, Bradley R. <BRWilson@wlrk.com>

Sent: Sunday, July 24, 2022 11:36 PM

To: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>

Subject: RE: Twitter v. Musk

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

We write in response to your email from earlier today.

To begin, you have mischaracterized Twitter's position respecting the dates for trial. We have not asked defendants to commit to completing trial in a week (although we believe that a five-day trial will be more

than sufficient in this case). Rather, we have simply said that if defendants decline to make that commitment, we will not agree to support an October 17 trial start, as we had offered to do as a gesture of goodwill if the Court is available to hold trial either the week of October 10 or October 17.

With regard to the issues addressed in the second and third paragraphs of your message (which address, respectively, the date and time for an exchange of initial proposed search protocols and the deadline for defendants to file their Answer), Twitter stands by the positions it has previously conveyed for the reasons already articulated.

In respect of the pre-trial schedule, we are attaching a slightly revised proposal that includes bracketed interim deadlines that would apply if the trial start date is October 10. (This version also clarifies that August 28 is the substantial completion deadline for all document productions, which had been our intention.) Once the Court confirms the trial dates, we will be prepared to meet and confer promptly in an effort to finalize the interim dates. We have not included defendants' proposed August 1 deadline for the production of "material large data sets." We do not believe defendants' attempt to impose a one-way discovery deadline for a particular subset of discovery sought from plaintiff—before Twitter has even served its responses and objections—is reasonable or consistent with the discovery rules and customary practice in expedited cases. Nor do we think it appropriate for defendants to effectively seek to use a scheduling order as a substitute for an order requiring plaintiff to provide particular discovery. We intend to serve responses and objections to your discovery, promptly meet and confer about any disputed discovery requests, and produce agreed discovery on a rolling and expedited basis and in accordance with reciprocal deadlines for responding to discovery requests.

Finally, the conditions you attached to your counter-proposal regarding an exchange of initial document productions are unreasonable. Here again, defendants are attempting to impose an artificial deadline that would obligate Twitter—and Twitter alone—to provide substantial document discovery before defendants have answered the Complaint (or disclosed whether they intend to assert counterclaims) and before the parties have served responses and objections and conducted the meet-and-confer process.

Regards,
Brad

From: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>

Sent: Sunday, July 24, 2022 3:47 PM

To: Wilson, Bradley R. <BRWilson@wlrk.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>

Subject: RE: Twitter v. Musk

*** EXTERNAL EMAIL ***

Brad:

In response to the points you raise below:

First, your continued insistence that Defendants commit to complete trial in a week – *three months in advance* – is simply not appropriate. Of course, Defendants aim to present their case at trial in the most efficient way possible. However, given the magnitude of this case, both in terms of dollars at stake and importance to Defendants, we cannot agree to limit our presentation in any way. We trust you can understand this.

Second, your refusal to “accelerate” the exchange of proposed search protocols by a mere 19 hours when your client is the one who sought expedition of this case in the first place makes no sense. You fail to provide any reason why you cannot conduct the exchange earlier. Thus this appears to be yet another attempt by Twitter to stall this case. We ask you to reconsider and let us know your final position by 8am EST tomorrow.

Third, we have already agreed to move up the deadline for filing the answer *twice*. We cannot commit to filing it any earlier than that. It must be noted that your attempt to use our filing of the answer as a justification for Twitter’s foot dragging on discovery is transparent pretext, and should it continue we are prepared to raise it with the Court .

Fourth, regarding the schedule, we have given you “specific comments” on your proposed schedule below, most importantly that your proposal of August 28 as the deadline for substantial completion of document production is untenable and unreasonable. You have failed to provide any reason whatsoever why you cannot meet our proposed deadline of August 1 to substantially complete production of material large data sets. This appears to be yet another attempt to prevent Defendants from building their case on the highly expedited timeline that Twitter requested. Please let us know by 8am EST tomorrow if you will agree to our proposed deadline.

Finally, your suggestion that we are doing anything outside of the norm in this litigation is not well taken. We are merely trying to move this case forward on the highly expedited timeline that Twitter requested. That is why we have requested that Twitter immediately produce the non-objectionable categories of documents we listed below, including documents/data responsive to RFP 1 in Defendants’ second set of RFPs. During last week’s hearing, Mr. Savitt represented to the Court that “Twitter will be in a position to make everything that’s available, available.” Instead of honoring that by agreeing to immediately produce relevant documents (or explain why you cannot do so), you try to turn the tables on us and demand we make a “reciprocal” production. Despite the fact that you just served document requests Friday night, we will undertake our best efforts to make an initial production by the end of this coming week on the condition that Twitter agrees to (1) produce everything it concedes is relevant immediately, (2) provide an explanation as to why the other categories we listed below are not relevant, and (3) our August 1 proposed deadline to substantially complete production of material large data sets. We request your final position on this by 8am EST tomorrow.

Thanks,
Kate

From: Wilson, Bradley R. <BRWilson@wlrk.com>

Sent: Saturday, July 23, 2022 8:00 PM

To: Kathryn Bonacorsi <kathrynbacorsi@quinnemanuel.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>

Subject: RE: Twitter v. Musk

Counsel,

We write in response to your most recent email:

First, in light of Defendants' unwillingness to commit to complete the trial on or before October 21 in the event that trial commences on October 17, we do not agree to support an October 17 start date. We will await the Court's guidance regarding the dates for trial, in accordance with the instructions conveyed to the parties on this week's call to Chambers.

Second, Twitter remains willing to exchange initial proposed search protocols on Tuesday at 12:00 p.m. EDT, which is less than six days after Defendants served the document requests to which the initial search protocol will pertain. Your proposal to accelerate the time for this exchange by 19 hours is unreasonable.

Third, as we have repeatedly explained, Defendants' unreasonable delay in serving their responsive pleading is prejudicing Twitter's ability to assess the appropriate scope of discovery in this expedited case and prepare for the production of responsive documents. Your refusal to even say whether Defendants will be asserting counterclaims is substantially compounding this prejudice. We continue to believe that Defendants should file their Answer immediately, and Twitter reserves all rights in that regard.

Fourth, and most fundamentally, we continue to object to Defendants' efforts to conduct one-way discovery in this case in a disorderly fashion that contravenes customary practice in this Court. The next step in an orderly discovery program is the entry of a case schedule, and we accordingly ask that you provide specific comments on the proposed schedule that we sent you yesterday afternoon (which, we wish to note, already resolves several of the issues you mentioned in your email last night). We can make ourselves available tomorrow to discuss your further proposed revisions if that would be useful.

Twitter, meanwhile, is focused on preparing to produce responsive and non-privileged material on an expedited basis. Twitter will serve formal responses and objections to your clients' pending document requests in accordance with the timeline agreed by the parties, and we will make ourselves available to meet and confer about those requests promptly thereafter. If there are disputes about the proper scope of discovery, Twitter is prepared to present those issues to the Court for resolution in accordance with an orderly but prompt schedule. This procedure has been successfully followed over and over again in expedited cases in this Court, and we believe the Court will expect the parties to follow it here.

Twitter is also prepared to agree to make an initial production of responsive documents—consisting of some of the documents you have identified below, from categories that Twitter agrees are responsive—by the end of the upcoming week. Twitter's willingness to do so is contingent upon Defendants providing a reciprocal commitment to make an initial production on the same timeline. Please let us know if Defendants will make that commitment.

Regards,
Brad

From: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>
Sent: Friday, July 22, 2022 9:27 PM
To: Wilson, Bradley R. <BRWilson@wlrk.com>
Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>
Subject: Re: Twitter v. Musk

*** EXTERNAL EMAIL ***

Brad:

Again, we write to respond only to the substantive points you make below:

First, we appreciate your willingness to start trial on October 17 subject to the Court's availability. However, we do not agree to any of the conditions you are trying to impose.

Second, given that time remains of the essence, we expect that you will provide your proposed search protocols on Monday, July 25, at 5:00 PM ET. We are prepared to do the same.

Third, while we largely stand on our position as articulated below regarding the Answer, we will agree to file the Answer on July 28.

Fourth, we disagree with numerous of your revisions to our proposed schedule, including your proposed deadline of August 28 for substantial completion of document production. As this date is just ten days before opening expert reports are due – in a case where experts are crucial – your proposal is an obvious attempt to squeeze us, and prevent our experts from engaging, for the benefit of the Court, in a meaningful and fair analysis of the data and documents you provide. Instead, we expect the production deadline to be August 1 for material large data sets in response to initial requests. In addition, we also expect the schedule to include deadlines for (1) the identification of rebuttal expert witnesses and general subject matter of expert testimony; (2) parties to identify any potential trial witnesses not previously deposed or scheduled for deposition and make such witnesses available for deposition; and (3) filing of motions in *limine* (if any).

Finally, your suggestion that discovery here will be "bilateral" is, to put it bluntly, absurd. Twitter – as the target company in this transaction – holds substantially all of the information that will be at issue in this litigation. It is patently unreasonable for Twitter, without any basis, to force Defendants to wait for Twitter to decide to produce documents central to this case, prejudicing Defendants' defense. This appears to be precisely what is happening here. To the extent you are suggesting that we are withholding reciprocal discovery from our clients, we simply note that you have not even served discovery requests. And furthermore, we are confused by your refusal to produce the categories of obviously non-objectionable and relevant material on a rolling basis. You even admit that some of the categories are relevant. While we disagree that any of the categories we listed below are irrelevant, you fail to identify which ones you refer to or why they are irrelevant. What's more, you already have stated that some of these categories have been ready to produce since *last week*. As we've reiterated numerous times, we are trying to work with you on the highly expedited schedule that *you requested*. You are now unjustifiably dragging your feet.

Please let us know by 5pm ET tomorrow whether you will agree to produce everything that you concede is relevant immediately, and provide an explanation as to why the other categories listed below are not relevant. We have now been debating the schedule for days, in the context of a case where less than ninety days are left until trial. Thus, in the absence of your agreement to (i) immediately produce all relevant documents; (ii) provide an explanation as to why the remainder are not relevant; (iii) your agreement to our document production deadline, we will seek relief.

Regards,
Kate

On Jul 22, 2022, at 4:24 PM, Wilson, Bradley R. <BRWilson@wlrk.com> wrote:

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

We continue to have concerns that Defendants are taking a one-sided view regarding the parties' obligations in expedited proceedings. For example, Defendants seek to defer the filing of their Answer (and potential Counterclaims) for another week, but demand that Twitter immediately negotiate search protocols and take various other actions. We think it is clear that Twitter cannot agree to a search protocol before it even knows what contentions/defenses Defendants raise in their Answer (and potential Counterclaims). Moreover, Twitter will want to address in its written discovery requests the contentions/defenses that Defendants raise in the Answer (and potential

Counterclaims). That is why the proposed Scheduling Order that Twitter submitted to the Court last Tuesday expressly provided that the first event in the schedule would be Defendants' filing an Answer to the Complaint. Notwithstanding Defendants' delay in responding to the Complaint, Twitter remains committed to moving this case forward consistent with the Court's ruling. Below are brief responses to the specific points raised in your email.

First, with respect to the trial date, as noted on the call the other night and in my prior email, our understanding is the Court will get back to the parties regarding its availability for trial the weeks of October 10 and October 17. Further, our understanding is that both sides are available both of those weeks; to the extent we were to call the Court, rather than wait to hear back from Chambers, we should advise the Court that the parties are available both weeks that were provided and ask for any further information the Court can provide regarding its availability during those weeks. To the extent the Court has sufficient availability the week of October 17 such that the trial could be completed by the end of that week, we can reserve that week with the Court for trial. If the Court does not have sufficient availability that week, or offers the week of October 10 only, then we need to reserve the week of October 10 for trial. Finally, our willingness to agree to trial in the week of October 17 (as opposed to the week of October 10) is conditioned on your commitment to conclude the trial that week and to not seek additional trial days. Please let us know if that is acceptable and if Defendants would like to organize a call to the Court on these matters.

Second, as noted above, Defendants' demand that Twitter negotiate search terms and custodians before Defendants respond to the Complaint makes no sense and is contrary to the normal process for litigation. Despite Defendants' delay in filing their responsive pleading in this expedited case, Twitter expects to be able to send an *initial* proposed search protocol to Defendants as part of a mutual exchange on Tuesday, July 26, at 12pm ET. For obvious reasons, however, the parties cannot finalize any search protocol until after Defendants file their Answer (and potential Counterclaims).

Third, we continue to believe that Defendants should file their Answer before the July 29 date you now propose, and Defendants also should disclose immediately if they intend to assert Counterclaims. As explained above, every day that Defendants delay in filing those pleadings further delays the parties' ability to move forward with discovery, including negotiating a search protocol.

Fourth, we have sent you the proposed final version of the Confidentiality Order. We will file it as soon as we have your sign-off.

Fifth, enclosed is Twitter's mark-up of the draft Scheduling Order that you provided last night. We are available to discuss, but believe it may be more productive to do so after the Court advises the parties of the specific trial dates.

With regard to the second to last paragraph of your email, once again Defendants purport to impose asymmetrical and arbitrary discovery demands on Plaintiff, while refusing to file a responsive pleading within a reasonable time in this case and not themselves offering to "immediately" produce "undoubtedly relevant [documents] that [defendants] know[] [they] must produce." Discovery is a cooperative endeavor, and while Defendants have made numerous demands on Plaintiff, they have not offered to reciprocate. Moreover,

although Twitter agrees that some of the categories of documents you list are relevant, and to produce such documents in accordance with the schedule agreed upon by the parties or ordered by the Court, a number of the categories are not relevant to the issues in the case and are not the proper subjects of discovery.

We of course are available to meet and confer regarding any of these matters.

Regards,
Brad

From: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>
Sent: Thursday, July 21, 2022 11:29 PM
To: Wilson, Bradley R. <BRWilson@wlrk.com>; Emily Kapur <emilykapur@quinnemanuel.com>
Cc: Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>
Subject: RE: Twitter v. Musk

*** EXTERNAL EMAIL ***

Brad:

We write in response to the substantive points you raise below:

First, as to trial, we appreciate your agreement to an October 17 trial date. Please let us know what time you are available tomorrow morning so we can call the Court to advise that both parties are available then.

Second, while we accept your proposal regarding the timing of Twitter's responses and objections to Defendants' pending document requests, we reject your proposal that we should wait until the answer is filed to discuss a "reasonable search protocol." There is simply no reason we cannot begin these discussions now, as we proposed yesterday, and it is in fact necessary to begin these discussions now given the compressed schedule (that Twitter requested). Indeed, there is no reason why custodians and search terms cannot be discussed now. Please provide your proposed "search protocol" by tomorrow at 5pm; in the absence of receiving your proposal, we will seek relief from the Court.

Third, Defendants are agreeable to an earlier deadline for filing their answer and are committed to filing by July 29, at which time you will know whether Defendants are asserting counterclaims.

Fourth, Defendants are in agreement regarding the Confidentiality Order and request that you file the order promptly tomorrow morning.

Fifth, attached please find our mark-up of Twitter's proposed schedule, as requested. We are available to meet and confer tomorrow to discuss this further.

In addition to the above, it is noteworthy that there are certain documents that are undoubtedly relevant that Twitter knows it must produce, including but not limited to: board meeting minutes and related materials regarding the Merger; all drafts of the Merger Agreement exchanged; executive level org charts and org charts for Twitter's growth team, metrics task force, product management, investor relations, revenue team, engineering team, trust & safety, safety & integrity, and cybersecurity; documents cited, quoted, or referenced in the Complaint and Motion to Expedite; manuals and policies regarding mDAU, ad sales, advertising metrics, growth metrics, suspension rules, machine learning, and AI; documents responsive to RFP 1 in Defendants' Second Requests for the Production of Documents; all documents, materials and/or data you said you were ready to produce in your July 15 letter; all OC consent requests and responses; all items provided in the data room; all exchanged drafts of the Credit Agreement, Limited Guarantee, and Debt Commitment Letter. Twitter should commence immediate rolling production of these documents without delay. Please confirm that you will agree to do so immediately, and start these rolling productions tomorrow.

Please confirm your agreement to all of the above by no later than 5pm tomorrow, otherwise we intend to raise these issues with the Court.

Thanks,
Kate

From: Wilson, Bradley R. <BRWilson@wlrk.com>
Sent: Thursday, July 21, 2022 8:54 PM
To: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>; Emily Kapur <emilykapur@quinnemanuel.com>
Cc: Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>
Subject: RE: Twitter v. Musk

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

We reject your summary of last night's call, which references remarks that were never made and omits other important aspects of the discussion. Because we do not believe that engaging in a tit-for-tat exchange on the subject would be productive, we decline to do so.

We write instead to address a few substantive points:

First, as we discussed last night, Twitter believes that a prompt trial is essential for all of the reasons it has previously articulated, and would accordingly prefer to begin on October 10. Nevertheless, with the objective of removing points of

contention, Twitter will not oppose commencing trial on October 17, if that remains your preference and is agreeable to the Court, provided that the Court has sufficient availability such that the trial could be completed by the end of that week. Once the Court shares its available trial dates with the parties, we will make ourselves available right away to determine the specific days for trial.

Second, as we have explained, Twitter is committed to move quickly to bring this case to trial in accordance with the Court's Order. We note in that regard, however, that expedition works both ways, and your proposed approach—under which Twitter would be obligated to comply with arbitrary and non-orderly deadlines dictated by Defendants, even before the parties have agreed to a schedule let alone a scheduling order, and without Defendants providing any corresponding commitments as to the timing of their own actions—is not reasonable. Most notably, Defendants have proposed to file their Answer on August 3, which is after the 20-day deadline that would apply under the Court's rules in a non-expedited case. To address this issue, we propose the following: (a) Twitter will serve responses and objections to the pending document requests within two business days after Defendants serve their Answer, and will make itself available to meet and confer about the requests and a reasonable search protocol for identifying responsive documents promptly thereafter; and (b) the parties will agree to a presumptive deadline, applicable to both sides, for serving responses and objections to other document requests.

Third, in addition to reiterating our request that Defendants serve their Answer as promptly as possible, we ask that you please let us know immediately whether Defendants intend to assert Counterclaims. If that is indeed your intention, the need for Defendants to file their responsive pleading is even more urgent.

Fourth, Twitter accepts your proposed revision to paragraph 20(c) of the Confidentiality Order. However, Twitter cannot agree to your proposed insertion of paragraph 6(a). This is not the typical circumstance in which the primary defendant is a large organization, and we are concerned that agreeing to your proposed language would effectively nullify the Highly Confidential tier. Twitter does not intend to over-designate discovery material as Highly Confidential in this case, and we believe that we can address this issue on a document-by-document basis when the time comes. If you would like to meet and confer on this issue, we can make ourselves available tomorrow to do so.

Fifth, we continue to await Defendants' mark-up of our proposed pre-trial schedule. Please send it as soon as you can tonight.

Finally, with regard to the matter of your clients' access to the Firehose and Enterprise API feeds, we are advised that your understanding is not correct. Regardless, we have confirmed that your clients will continue to have access to these feeds through tomorrow and into the future. This continued access is being provided without prejudice to any of Twitter's rights. Your clients have been provided this access pursuant to the provisions of the Merger Agreement that govern your clients' information rights in connection with the Merger and not in the context of this litigation.

Regards,
Brad

From: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>
Sent: Thursday, July 21, 2022 3:47 PM
To: Wilson, Bradley R. <BRWilson@wlrk.com>; Emily Kapur <emilykapur@quinnemanuel.com>
Cc: Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>
Subject: RE: Twitter v. Musk

*** EXTERNAL EMAIL ***

Counsel,

Notwithstanding Defendants' First RFP # 1, reattached here, we understand the user interface for the Firehose and Enterprise API feeds indicates that Defendants' access to those feeds will terminate tomorrow. Please immediately confirm that Defendants' access will continue. If Twitter does plan to terminate Defendants' access tomorrow, we intend to raise this issue with the Court as well.

Lead Counsel from New York and Delaware remain available today to meet and confer regarding this and the issues raised yesterday.

Best,
Kate

From: Kathryn Bonacorsi
Sent: Thursday, July 21, 2022 12:15 AM
To: Wilson, Bradley R. <BRWilson@wlrk.com>; Emily Kapur <emilykapur@quinnemanuel.com>
Cc: Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>
Subject: RE: Twitter v. Musk

Counsel:

We write in response to this evening's correspondence. Neither the tenor of the call, which was marked by serial attempts by plaintiffs' counsel to cut off defense counsel or make rude remarks, nor the substance of the discussion was at all appropriate or consistent with what is required in this Court. We were surprised that Twitter took the position that the parties cannot even discuss key issues like early dates in the schedule until Mr. Musk proposes a date to serve his answer that Twitter finds acceptable. In short, the call was an utter failure because Twitter refuses to proceed forward, despite having sought expedition.

As to your summary, we disagree with your summary of our call:

- **Trial date:** we believe it would ease the burden on the Court if the parties to worked together to agree to either October 10 or 17 as the start date. We sought to understand whether your side had a conflict with the October 17 date, which we believe is more workable overall, including because of the tight timeline until trial. You refused to answer that question, let alone discuss agreeing to one or the other date, instead telling us you were not on the call with the Court and were not authorized to speak to anyone's schedule. Your position is obviously unproductive because we need to work together on this most basic issue.
- **Pre-Trial Schedule:** Each side provided proposed schedules in advance of the call. We provided ours approximately 40 minutes after you provided yours, and we expected the parties could at least begin to discuss where we might reach agreement and where we could not. Instead, you indicated that you were not willing to discuss the schedule at all. Elevating form over substance, you suggested that you expected us to provide our proposal as redlines to a Word document instead of in the body of an email before you would respond. This absurd request is precisely the type of needless delay that has no place in an expedited case. There is absolutely no reason we cannot discuss proposed dates in whatever format either side proposes them, and we certainly came prepared to discuss your proposed dates. Further, to be clear, we did not say we would provide a counterproposal for an interrogatory limit; we simply said we rejected Twitter's proposed 10-interrogatory limit as it has no basis under the relevant rules. In contrast to your refusal to discuss any of the dates we proposed, we indicated we would take back your request for an earlier answer date and discuss with our team.
- **Ms. Musk Second RFP's 1&2:** We asked about these RFPs because prompt production in response to these RFPs is critical in order for Mr. Musk to have a fair hearing at trial. You responded that we were being unreasonable for asking to speak about them, would not agree to tell us when you would be prepared to speak about them, and instead referred again to Mr. Musk's answer, implying that Twitter may take the position these RFPs are irrelevant. The answer will not bear on these RFPs, and your refusal to even begin to discuss this issue with us is entirely unreasonable in the context of these expedited proceedings. It is evident that after seeking a hyper expedited schedule Twitter is using subterfuge to block progress in discovery. Whatever arguments Twitter has to make about Musk's defenses do not warrant a stay of discovery, particularly given Twitter's request for expedition.
- **Search Terms & Custodians:** There is every reason in this instance, when the Chancellor is unwell and out of the office, for the parties to work together on standard discovery issues in advance of finalizing the trial date. We did not think this would be controversial. The notion that our suggestion that we work on search terms and custodians together to make progress where there is often significant discussion between the parties was somehow unreasonable has no merit. Again, Twitter is blocking reasonable progress for no reason.
- **July 15 Letter:** We explained our position on the July 15 Letter in our July 19 Letter. You did not deny that the documents discussed in the July 15 Letter are available and ready for production, instead asserting that Twitter would produce nothing until after the Answer date is resolved. Having sought expedition, Twitter cannot secure a stay through self-help.
- **Protective Order:** This call would have been the time to address any issues with the Protective Order, but your side came prepared to discuss none, instead pointing to the lack of a protective

order as another reason for delay. We trust you will not raise material issues regarding the Protective Order tomorrow.

In short, all of Twitter's positions are nothing but an artifice for delay, a posture that frankly is surprising given that Twitter sought expedition.

Lead Counsel from New York and Delaware are available for a meet and confer all day tomorrow to try to make progress on these issues. Absent clear progress towards agreement on at least the first portion of the schedule by the end of the day tomorrow, we will seek relief from the Court.

Best,
Kate

From: Wilson, Bradley R. <BRWilson@wlrk.com>
Sent: Wednesday, July 20, 2022 9:57 PM
To: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>; Emily Kapur <emilykapur@quinnemanuel.com>
Cc: Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>
Subject: Twitter v. Musk

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

Thank you for organizing this evening's meet-and-confer call. We write to summarize the parties' discussions on that call:

1. **Trial Date:** You asked if Twitter would agree to commence trial on October 17 and present that date to the Court jointly. We explained that it is our understanding, based on the parties' recent call to Chambers, that the Court will be getting back to the parties soon with specific trial dates, which will fall either during the week of October 10 or the week of October 17. We told you that while our preference would be to start trial on October 10 (for all of the reasons set forth in our motion papers and presented at the hearing), we did not think it would be prudent to suggest specific dates given the guidance from Chambers.
2. **Pre-Trial Schedule/Answer to Complaint:** You agreed to send a markup of Twitter's proposed pre-trial schedule tomorrow. You previewed that the 10 interrogatory limit included in our proposed schedule is not acceptable and said that you would make a counterproposal as to the limit, which we said we would consider. We also asked that you answer the Complaint by this Friday, July 22, so the parties can properly factor that pleading into their thinking about the

appropriate scope of discovery, in accordance with customary practice. You said that Defendants would not answer on Friday, claiming that our request was unreasonable and suggesting that the Answer would not be illuminative as to the scope of discovery because we should assume that your clients will deny all of the Complaint's allegations. We ask you to reconsider your position and commit to filing your Answer far sooner than you are currently proposing to do (i.e. August 3).

3. **Defendants' Second RFPs (RFPs 1 & 2):** You specifically inquired about Request Nos. 1 and 2 in your clients' second set of RFPs, which you had served only hours before the meet and confer. You stated that your experts need the data sought in those two Requests as soon as possible and asked us to tell you—more or less immediately—our clients' position regarding them. We told you that it was unreasonable to ask us to engage in a substantive discussion about discovery requests served only this afternoon, particularly given that your clients have neither served their Answer nor committed to doing so on any reasonable timeline. You nevertheless asked that we provide Twitter's position on these two requests in "a couple of days," and we told you that we would take that question under advisement.
4. **Search Terms & Custodians:** You asked that we send you Twitter's proposed custodians and search terms tomorrow. We do not believe this is a reasonable request, nor one that is consistent with customary practice in this Court, and we communicated that view on the call. Although we are prepared to cooperate with reasonable discovery requests and work expeditiously to prepare this case for trial by mid-October, there is no basis for you to insist for information of this kind before your clients have Answered; before the parties have finalized a pre-trial schedule; before Twitter has served responses and objections to the relevant RFPs; and before we have held a single meet-and-confer call about the scope of discovery. This is the traditional order of things, even in expedited cases, and you provided no justification on the call for departing from this sensible practice.
5. **July 15 Letter:** You requested that Twitter immediately produce the data and information offered to your clients for in-person review (subject to the enumerated terms and conditions) in the letter sent by Messrs. Korman and Klein on July 15. We explained that the July 15 letter was sent pursuant to the provisions of the Merger Agreement that govern your clients' information rights in connection with the Merger and not in the context of this litigation. We explained that for purposes of this litigation, Twitter would consider any document request seeking the documents described in the July 15 letter and respond to such request in the ordinary course. We further explained that if your clients are interested in reviewing the documents described in the July 15 letter for a proper purpose related to the Merger, you should follow up with Messrs. Korman and Klein.
6. **Protective Order:** You asked that we send you a mark-up of the protective order by tomorrow, and we agreed to do so.

We look forward to receiving your mark-up of the pre-trial schedule.

Regards,
Brad

Bradley R. Wilson

Wachtell, Lipton, Rosen & Katz
51 West 52nd Street | New York, NY 10019
+1 (212) 403-1108 (Direct) | +1 (212) 403-2108 (Fax)
BRWilson@wlrk.com | www.wlrk.com

=====
Please be advised that this transmittal may be a confidential attorney-client communication or may otherwise be privileged or confidential. If you are not the intended recipient, please do not read, copy or re-transmit this communication. If you have received this communication in error, please notify us by e-mail (helpdesk@wlrk.com) or by telephone (call us collect at 212-403-4357) and delete this message and any attachments.

Thank you in advance for your cooperation and assistance.
=====

July 26, 2022

Plaintiff's Initial Proposed Search Protocol for Plaintiff's Documents
***Twitter, Inc. v. Musk, et al.*, C.A. No. 2022-0613-KSJM**

I. Proposal

- This initial proposed search protocol covers email review. Twitter is prepared to promptly meet and confer with Defendants regarding review and production of other forms of ESI (*e.g.*, text messages; Slack; shared-drive folders).
- This proposal is subject to running a hit report across all custodians and all data collected to determine overall burden. Twitter reserves the right to make appropriate modifications to its proposal to the extent a hit report returns an unreasonably high hit count, to reduce false hits, and to otherwise address burden and promote efficiency and proportionality.
- The parties' negotiations over the appropriate scope of discovery in this matter remain ongoing, and Twitter reserves all rights with respect thereto. To the extent Defendants seek the inclusion of additional custodians, search terms, document sources, or the like in response to this proposal, Twitter reserves the right to modify in any subsequent proposal the list of custodians, search terms, or other components of the below proposal to account for overall burden.

II. Search Functionality

- Email communications collected from the below-identified custodians would be searched using the search terms and over the period set forth in Exhibit A.
- Search terms would not be case-sensitive and would be run without reference to capitalization.
- Search terms would be run to identify documents that include search terms as whole words or the beginning portion of words, where "*" is appended to a term.
- De-duplication would be used across custodians.
- Threading would be applied such that only the most inclusive version of any email string, and any lesser-included versions that contain unique attachments, would be reviewed and produced.

III. Custodians¹

1. Parag Agrawal
2. Emmy Anargyros
3. Stacey Conti
4. Todd Doughty
5. Egon Durban
6. Robert Kaiden
7. Martha Lane Fox
8. Patrick Pichette
9. Yoel Roth
10. Ned Segal
11. Bret Taylor
12. [REDACTED]

¹ With respect to the custodians who serve as directors on Twitter's Board, and who are not Twitter executives, the proposed search protocol is subject to what is feasible based on a given custodian's particular circumstances.

Exhibit A

Date Range: January 1, 2022 – July 8, 2022

Search Terms

1. Musk*
2. Elon*
3. Excession
4. “take private”
5. Merge* /5 agree*
6. Merge* /5 negotiat*
7. Merge* /5 approv*
8. Merge* /5 discuss*
9. “seller-friendly”
10. “seller friendly”
11. “Tender offer”
12. Tender /5 share*
13. “X Holdings”
14. “Project X”
15. Tugboat*
16. Tundra*
17. Lunar*
18. Tango*
19. Ringler*
20. Spiro
21. Spiro’s
22. Korman
23. Korman’s
24. Claassen*
25. Classen*
26. Andreessen*
27. Swan
28. Swan’s
29. Gracias
30. Birchall
31. Julian.mettmann@morganstanley.com
32. Kate.claassen@morganstanley.com
33. Anton.mayr@morganstanley.com
34. Anthony.armstrong@morganstanley.com
35. Steve.weiner@morganstanley.com
36. Beth.lebow@davispolk.com
37. Stephen.salmon@davispolk.com
38. Alan.denenberg@davispolk.com
39. Alex.moss@davispolk.com
40. Noah.wintroub@jpmorgan.com
41. David.m.gruen@jpmorgan.com
42. Marco.j.caggiano@jpmorgan.com
43. Eric.menell@jpmorgan.com

44. Sam.britton@gs.com
45. Stefani.silverstein@gs.com
46. Kim-thu.posnett@gs.com
47. Bill.fox@gs.com
48. Adeeb.sahar@skadden.com
49. Mike.ringler@skadden.com
50. Sonia.nijjar@skadden.com
51. Dohyun.kim@skadden.com
52. Laura.Kaufmann@skadden.com
53. Alexspiro@quinnemanuel.com
54. Mkorman@wsgr.com
55. mDAU /5 spam
56. mDAU /5 bot*
57. mDAU /5 false
58. mDAU /5 fake
59. mDAU /5 estimat*
60. mDAU /5 audit*
61. Spam /5 account*
62. Spam /5 bot*
63. Spam /5 identif*
64. Spam* /5 audit*
65. Financing /10 debt
66. Financing /10 equity
67. Join* /5 board
68. "company case"
69. "cash flow projections"
70. "retention program"
71. "compensation committee" /15 retention
72. Firehose
73. Account* /5 false
74. Account* /5 fake
75. Account* /5 bot*
76. SEC /5 disclos*
77. Sampling
78. ADAP
79. "Contractor agent"
80. Human review*
81. Human label*
82. "Quality Analyst"
83. Information /3 request*
84. Information right*
85. Hiring /5 pause
86. Hiring /5 freeze
87. Hiring /5 slowdown
88. Layoff*
89. "lay off"
90. "Talent acquisition"
91. "Recruiting staff"
92. Consent /3 right*

- 93. Consent* / 5 (withhold* or withheld)
- 94. Consent* / 5 reasonabl*
- 95. "Credit facility"
- 96. Fir* /10 Falck
- 97. Fir* /10 Beykpour
- 98. [REDACTED]
- 99. [REDACTED]
- 100. [REDACTED]
- 101. Terminat* /10 Falck
- 102. Terminat* /10 Beykpour
- 103. [REDACTED]
- 104. [REDACTED]
- 105. [REDACTED]
- 106. Resign* /10 Falck
- 107. Resign* /10 Beykpour
- 108. [REDACTED]
- 109. [REDACTED]
- 110. [REDACTED]
- 111. Depart*/10 Falck
- 112. Depart* /10 Beykpour
- 113. [REDACTED]
- 114. [REDACTED]
- 115. [REDACTED]
- 116. Concentrix*

Exhibit F

From: Kathryn Bonacorsi
Sent: Wednesday, July 27, 2022 2:02 PM
To: Wilson, Bradley R.
Cc: Emily Kapur; Andrew J. Rossman; Alex Spiro; Christopher Kercher; Silpa Maruri; Matthew Fox; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP); Rosenello, Lauren N; Shannon, Kevin R. (Potter Anderson & Corroon LLP); Kelly, Christopher N. (Potter Anderson & Corroon LLP); Savitt, William D.; Eddy, Sarah K.; McLeod, Ryan A.; Reddy, Anitha; Yavitz, Noah B.; Goodman, Adam L.; Sadinsky, Alexandra P.; Slights, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC); Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC)
Subject: RE: Twitter v. Musk
Attachments: Defendants' Counterproposal to Twitter's Proposed Search Protocol.pdf

Counsel:

Following up on the below, attached please find Defendants' counterproposal to Twitter's proposed search protocol.

Thanks,
Kate

From: Kathryn Bonacorsi
Sent: Wednesday, July 27, 2022 11:06 AM
To: Wilson, Bradley R. <BRWilson@wlrk.com>
Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEddy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBYavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slights, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>
Subject: RE: Twitter v. Musk

Brad:

We write to clarify and respond to some of the substantive points you raise below:

1. Defendants' Proposed Custodian: You asked why Bob Swan, Antonio Gracias, Kristina Salen, and Patrick O'Malley were not included as custodians. We informed you that none of their documents were under the possession, custody, or control of Defendants. We stated that you of course could subpoena these individuals. We confirmed that we would not do anything to prevent or interfere with their timely responses to third party subpoenas. With respect to Mr. Swan and Mr. Gracias, we will facilitate prompt cooperation with any reasonably tailored subpoenaed. Regarding the data scientists, we do not believe that your request for this information is appropriate. Nor do we have any obligation to provide this information. To the contrary, as these individuals are non-testifying consultants of Defendants, any work or analyses they have performed for

Defendants at the requests of counsel is privileged. As noted during the call, we will be identifying relevant individuals in response to Twitter's interrogatories, which we expect to serve in the next few days.

2. Defendants Date Range/Search Terms: As noted during our call, the hit count based on our current collection for our current proposal is 2,474. This figure is based on the small set of documents we already have collected and uploaded to the database that fall within our proposed date range. The hit count will therefore increase as we continue to collect and upload. As noted during the call, we are of course willing to provide updated hit counts throughout this process.
3. Emails: We confirm that the three email addresses you listed below are the only email addresses that contain responsive information for Mr. Birchall and Mr. Musk.
4. Other document sources: As noted during the call, we are still collecting responsive documents from Mr. Birchall and Mr. Musk. At this time, it is our understanding that there no responsive documents saved on personal laptops or in cloud-based platforms or in hardcopy form; however, this may be subject to change as our collection is ongoing.
5. Twitter's Proposed Custodians: We explained that given the fact Twitter is a massive organization, it is neither efficient nor fair for Defendants to guess who within the organization will have relevant documents, particularly on such a highly expedited timeline to trial. The difficulties of proceeding in this manner are compounded by the fact that (1) publicly available information on the roles and hierarchy within Twitter is ambiguous at best and (2) the high turnover rate of employees within Twitter makes it nearly impossible to identify who is (or was) in relevant roles. That it is why we requested org charts, which you did not dispute are relevant and would have to be produced if they existed. We would appreciate your confirmation on this point by 5pm EST today. We also requested historical org charts and any other documents – perhaps within the HR Department – that reflect reporting lines within Twitter and company structure and hierarchy. While we will provide a counterproposal of custodians and groups we believe have information relevant to this dispute, without more information about what groups and departments *even exist* within Twitter, our counterproposal will not be complete. Twitter's lack of transparency is highly prejudicial where the parties have such a short window of time to complete discovery (by Twitter's design). Given our willingness to work with third parties Mr. Swan and Mr. Gracias to ensure prompt compliance with subpoenas, we expect Twitter to promptly produce the straightforward custodial information requested herein, as cooperation by both parties is necessary under the circumstances.
6. We have no objection to the initial 12 custodians Twitter has proposed, so long as you understanding we are reserving our rights to request more custodians.

We will follow up at 5pm EST today with our counterproposal. Please let us know whether you are available to discuss tomorrow at 9am EST.

Thanks,
Kate

From: Wilson, Bradley R. <BRWilson@wlrk.com>

Sent: Tuesday, July 26, 2022 11:01 PM

To: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod,

Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBYavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slight, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

We write to summarize the parties' discussions on this evening's meet-and-confer call:

Defendants' Initial Proposed Search Protocol

1. **Custodians:** You represented that the documents of Bob Swan, Antonio Gracias, Kristina Salen, and Patrick O'Malley are not within defendants' possession, custody, or control, and explained that you did not include these advisors as custodians in defendants' proposal for that reason. In light of your taking that position, we asked that defendants commit to assist Twitter in seeking the timely production of documents from these individuals in response to third-party subpoenas. You said you would get back to us, but indicated that you are generally amenable to doing so.

You also advised that the documents of the data scientists that defendants engaged to assist them in evaluating the data that Twitter provided pursuant to defendants' information requests are likewise not within defendants' possession, custody, or control. As such, we asked that you provide the names of those data scientists promptly so that we can prepare third-party subpoenas and serve them as soon as possible, consistent with the expedited schedule. Please let us know whether defendants will provide this information by tomorrow.

2. **Date Range / Search Terms:** You advised that your proposed date range for your initial proposal was April 2022 through July 8, 2022 because you believe that is the relevant time period. You also explained that you omitted search terms keyed to the subject matter of certain issues addressed in Twitter's complaint and pending document requests (e.g. with respect to Twitter's claim that defendants breached the merger agreement by failing to devote their reasonable best efforts to consummating the merger) because, in your view, these are not relevant topics. We disagree on both points, as we discussed, and will mark up your proposal to address our concerns. We can discuss these issues in more detail on our next meet-and-confer call.

To facilitate our mark-up of your proposal, we ask that you provide as soon as possible—either tonight or early tomorrow morning—with the hit count associated with the initial proposal you sent earlier today, consistent with our sharing that figure with you on the call in connection with Twitter's initial proposal (in Twitter's case, more than 65,000 documents, including families, for the proposed custodians with Twitter email addresses). Please confirm that you will provide this information.

3. **Emails:** You explained that, although you are still in the process of collecting documents and working with your clients to understand their files and the sources of potentially responsive documents, you intend to search at a minimum Mr. Musk's Tesla email address

as well as his SpaceX email address, along with Mr. Birchall's Excession email address. You said you would get back to us regarding whether there are any other email accounts that could contain relevant information.

4. Text Messages: You stated that you intend to collect text messages. We agreed to revisit a protocol for searching and reviewing text messages on a subsequent call.
5. Other document sources: You confirmed that your proposed search terms were intended to cover email searches only. You committed to get back to us on whether relevant documents may exist on your custodians' personal computers and/or in cloud-based platforms. You explained that you have no specific objection to collecting and producing responsive Twitter direct messages, but advised that you had not specifically considered the matter as of yet. We look forward to discussing this issue on our next call.

In addition to these sources, please confirm that you also intend to collect and review potentially responsive hard-copy documents from your custodians.

Plaintiff's Initial Proposed Search Protocol

1. Custodians / Org Charts: You requested that we send you org charts in order to assist you in identifying potential custodians. As we explained, we do not believe that Twitter creates org charts in the ordinary course of its business, but we agreed to confirm that with our client. As an alternative approach, and in the interest of advancing our discussions regarding Twitter's search protocol, we requested that you identify specific groups/functions within Twitter from which you are seeking documents, and you said that you would be willing to provide that information. Please do so promptly. Twitter of course reserves the right to decline to add particular custodians that you might request on grounds of relevance, proportionality, overall burden, etc.

In addition, please let us know if you have any objection to the inclusion of the 12 custodians we have already proposed, so that we may proceed with reviewing their documents in an orderly and efficient manner.

2. Hit reports: Twitter and defendants agreed that each side is prepared to exchange customary hit reports as we continue to negotiate search terms and protocols.
3. Exchange of counterproposals: You proposed that the parties exchange counterproposals at 5:00 p.m. EDT tomorrow. We agree to do so.

Regards,
Brad

From: Wilson, Bradley R.

Sent: Tuesday, July 26, 2022 1:14 PM

To: 'Kathryn Bonacorsi' <kathrynbbonacorsi@quinnemanuel.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N

<Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP)
<kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP)
<ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod,
Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBYavitz@wlrk.com>;
Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slight, Joseph R.
(Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC)
<bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

We are available at 6:30 and will send a dial-in.

From: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>

Sent: Tuesday, July 26, 2022 12:44 PM

To: Wilson, Bradley R. <BRWilson@wlrk.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP)
<andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn
Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Silpa Maruri
<silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden,
Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N
<Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP)
<kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP)
<ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod,
Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBYavitz@wlrk.com>;
Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slight, Joseph R.
(Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC)
<bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

*** EXTERNAL EMAIL ***

Brad:

We're no longer available at that time. Are you available at 6:30pm EST?

Thanks,
Kate

From: Wilson, Bradley R. <BRWilson@wlrk.com>

Sent: Tuesday, July 26, 2022 11:59 AM

To: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex
Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Silpa Maruri
<silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden,
Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N
<Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP)
<kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP)
<ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod,
Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBYavitz@wlrk.com>;
Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slight, Joseph R.
(Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC)

<bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

We attach Twitter's initial proposed search protocol.

We are available to meet and confer at 4:30 p.m. EDT. If that time still works for defendants, we will send a dial-in.

Regards,
Brad

From: Wilson, Bradley R.

Sent: Tuesday, July 26, 2022 10:58 AM

To: 'Kathryn Bonacorsi' <kathrynbonacorsi@quinnemanuel.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NB Yavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slights, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; 'Sorrels, Brad' <bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

Counsel,

We likewise plan to exchange initial proposed search protocols at 12 p.m. EDT.

We are checking calendars on our side and will revert soon with our availability for the meet-and-confer you have requested.

Regards,
Brad

From: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>

Sent: Monday, July 25, 2022 10:02 PM

To: Wilson, Bradley R. <BRWilson@wlrk.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP)

<kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP)
<ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod,
Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>
Subject: RE: Twitter v. Musk

*** EXTERNAL EMAIL ***

Brad:

I am confirming that we will exchange initial search terms and custodians tomorrow at noon EST. Please let us know when you are available for a meet and confer to discuss after 4pm ET.

Thanks,
Kate

From: Wilson, Bradley R. <BRWilson@wlrk.com>
Sent: Sunday, July 24, 2022 11:36 PM
To: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>
Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>
Subject: RE: Twitter v. Musk

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

We write in response to your email from earlier today.

To begin, you have mischaracterized Twitter's position respecting the dates for trial. We have not asked defendants to commit to completing trial in a week (although we believe that a five-day trial will be more than sufficient in this case). Rather, we have simply said that if defendants decline to make that commitment, we will not agree to support an October 17 trial start, as we had offered to do as a gesture of goodwill if the Court is available to hold trial either the week of October 10 or October 17.

With regard to the issues addressed in the second and third paragraphs of your message (which address, respectively, the date and time for an exchange of initial proposed search protocols and the deadline for defendants to file their Answer), Twitter stands by the positions it has previously conveyed for the reasons already articulated.

In respect of the pre-trial schedule, we are attaching a slightly revised proposal that includes bracketed interim deadlines that would apply if the trial start date is October 10. (This version also clarifies that August 28 is the substantial completion deadline for all document productions, which had been our intention.) Once the Court confirms the trial dates, we will be prepared to meet and confer promptly in

an effort to finalize the interim dates. We have not included defendants' proposed August 1 deadline for the production of "material large data sets." We do not believe defendants' attempt to impose a one-way discovery deadline for a particular subset of discovery sought from plaintiff—before Twitter has even served its responses and objections—is reasonable or consistent with the discovery rules and customary practice in expedited cases. Nor do we think it appropriate for defendants to effectively seek to use a scheduling order as a substitute for an order requiring plaintiff to provide particular discovery. We intend to serve responses and objections to your discovery, promptly meet and confer about any disputed discovery requests, and produce agreed discovery on a rolling and expedited basis and in accordance with reciprocal deadlines for responding to discovery requests.

Finally, the conditions you attached to your counter-proposal regarding an exchange of initial document productions are unreasonable. Here again, defendants are attempting to impose an artificial deadline that would obligate Twitter—and Twitter alone—to provide substantial document discovery before defendants have answered the Complaint (or disclosed whether they intend to assert counterclaims) and before the parties have served responses and objections and conducted the meet-and-confer process.

Regards,
Brad

From: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>

Sent: Sunday, July 24, 2022 3:47 PM

To: Wilson, Bradley R. <BRWilson@wlrk.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>

Subject: RE: Twitter v. Musk

*** EXTERNAL EMAIL ***

Brad:

In response to the points you raise below:

First, your continued insistence that Defendants commit to complete trial in a week – *three months in advance* – is simply not appropriate. Of course, Defendants aim to present their case at trial in the most efficient way possible. However, given the magnitude of this case, both in terms of dollars at stake and importance to Defendants, we cannot agree to limit our presentation in any way. We trust you can understand this.

Second, your refusal to “accelerate” the exchange of proposed search protocols by a mere 19 hours when your client is the one who sought expedition of this case in the first place makes no sense. You fail to provide any reason why you cannot conduct the exchange earlier. Thus this appears to be yet another attempt by Twitter to stall this case. We ask you to reconsider and let us know your final position by 8am EST tomorrow.

Third, we have already agreed to move up the deadline for filing the answer *twice*. We cannot commit to filing it any earlier than that. It must be noted that your attempt to use our filing of the answer as a justification for Twitter's foot dragging on discovery is transparent pretext, and should it continue we are prepared to raise it with the Court .

Fourth, regarding the schedule, we have given you "specific comments" on your proposed schedule below, most importantly that your proposal of August 28 as the deadline for substantial completion of document production is untenable and unreasonable. You have failed to provide any reason whatsoever why you cannot meet our proposed deadline of August 1 to substantially complete production of material large data sets. This appears to be yet another attempt to prevent Defendants from building their case on the highly expedited timeline that Twitter requested. Please let us know by 8am EST tomorrow if you will agree to our proposed deadline.

Finally, your suggestion that we are doing anything outside of the norm in this litigation is not well taken. We are merely trying to move this case forward on the highly expedited timeline that Twitter requested. That is why we have requested that Twitter immediately produce the non-objectionable categories of documents we listed below, including documents/data responsive to RFP 1 in Defendants' second set of RFPs. During last week's hearing, Mr. Savitt represented to the Court that "Twitter will be in a position to make everything that's available, available." Instead of honoring that by agreeing to immediately produce relevant documents (or explain why you cannot do so), you try to turn the tables on us and demand we make a "reciprocal" production. Despite the fact that you just served document requests Friday night, we will undertake our best efforts to make an initial production by the end of this coming week on the condition that Twitter agrees to (1) produce everything it concedes is relevant immediately, (2) provide an explanation as to why the other categories we listed below are not relevant, and (3) our August 1 proposed deadline to substantially complete production of material large data sets. We request your final position on this by 8am EST tomorrow.

Thanks,
Kate

From: Wilson, Bradley R. <BRWilson@wlrk.com>

Sent: Saturday, July 23, 2022 8:00 PM

To: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEddy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>

Subject: RE: Twitter v. Musk

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

We write in response to your most recent email:

First, in light of Defendants' unwillingness to commit to complete the trial on or before October 21 in the event that trial commences on October 17, we do not agree to support an October 17 start date. We will await the Court's guidance regarding the dates for trial, in accordance with the instructions conveyed to the parties on this week's call to Chambers.

Second, Twitter remains willing to exchange initial proposed search protocols on Tuesday at 12:00 p.m. EDT, which is less than six days after Defendants served the document requests to which the initial search protocol will pertain. Your proposal to accelerate the time for this exchange by 19 hours is unreasonable.

Third, as we have repeatedly explained, Defendants' unreasonable delay in serving their responsive pleading is prejudicing Twitter's ability to assess the appropriate scope of discovery in this expedited case and prepare for the production of responsive documents. Your refusal to even say whether Defendants will be asserting counterclaims is substantially compounding this prejudice. We continue to believe that Defendants should file their Answer immediately, and Twitter reserves all rights in that regard.

Fourth, and most fundamentally, we continue to object to Defendants' efforts to conduct one-way discovery in this case in a disorderly fashion that contravenes customary practice in this Court. The next step in an orderly discovery program is the entry of a case schedule, and we accordingly ask that you provide specific comments on the proposed schedule that we sent you yesterday afternoon (which, we wish to note, already resolves several of the issues you mentioned in your email last night). We can make ourselves available tomorrow to discuss your further proposed revisions if that would be useful.

Twitter, meanwhile, is focused on preparing to produce responsive and non-privileged material on an expedited basis. Twitter will serve formal responses and objections to your clients' pending document requests in accordance with the timeline agreed by the parties, and we will make ourselves available to meet and confer about those requests promptly thereafter. If there are disputes about the proper scope of discovery, Twitter is prepared to present those issues to the Court for resolution in accordance with an orderly but prompt schedule. This procedure has been successfully followed over and over again in expedited cases in this Court, and we believe the Court will expect the parties to follow it here.

Twitter is also prepared to agree to make an initial production of responsive documents—consisting of some of the documents you have identified below, from categories that Twitter agrees are responsive—by the end of the upcoming week. Twitter's willingness to do so is contingent upon Defendants providing a reciprocal commitment to make an initial production on the same timeline. Please let us know if Defendants will make that commitment.

Regards,
Brad

From: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>

Sent: Friday, July 22, 2022 9:27 PM

To: Wilson, Bradley R. <BRWilson@wlrk.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>

Subject: Re: Twitter v. Musk

Brad:

Again, we write to respond only to the substantive points you make below:

First, we appreciate your willingness to start trial on October 17 subject to the Court's availability. However, we do not agree to any of the conditions you are trying to impose.

Second, given that time remains of the essence, we expect that you will provide your proposed search protocols on Monday, July 25, at 5:00 PM ET. We are prepared to do the same.

Third, while we largely stand on our position as articulated below regarding the Answer, we will agree to file the Answer on July 28.

Fourth, we disagree with numerous of your revisions to our proposed schedule, including your proposed deadline of August 28 for substantial completion of document production. As this date is just ten days before opening expert reports are due – in a case where experts are crucial – your proposal is an obvious attempt to squeeze us, and prevent our experts from engaging, for the benefit of the Court, in a meaningful and fair analysis of the data and documents you provide. Instead, we expect the production deadline to be August 1 for material large data sets in response to initial requests. In addition, we also expect the schedule to include deadlines for (1) the identification of rebuttal expert witnesses and general subject matter of expert testimony; (2) parties to identify any potential trial witnesses not previously deposed or scheduled for deposition and make such witnesses available for deposition; and (3) filing of motions in *limine* (if any).

Finally, your suggestion that discovery here will be "bilateral" is, to put it bluntly, absurd. Twitter – as the target company in this transaction – holds substantially all of the information that will be at issue in this litigation. It is patently unreasonable for Twitter, without any basis, to force Defendants to wait for Twitter to decide to produce documents central to this case, prejudicing Defendants' defense. This appears to be precisely what is happening here. To the extent you are suggesting that we are withholding reciprocal discovery from our clients, we simply note that you have not even served discovery requests. And furthermore, we are confused by your refusal to produce the categories of obviously non-objectionable and relevant material on a rolling basis. You even admit that some of the categories are relevant. While we

disagree that any of the categories we listed below are irrelevant, you fail to identify which ones you refer to or why they are irrelevant. What's more, you already have stated that some of these categories have been ready to produce since *last week*. As we've reiterated numerous times, we are trying to work with you on the highly expedited schedule that *you requested*. You are now unjustifiably dragging your feet.

Please let us know by 5pm ET tomorrow whether you will agree to produce everything that you concede is relevant immediately, and provide an explanation as to why the other categories listed below are not relevant. We have now been debating the schedule for days, in the context of a case where less than ninety days are left until trial. Thus, in the absence of your agreement to (i) immediately produce all relevant documents; (ii) provide an explanation as to why the remainder are not relevant; (iii) your agreement to our document production deadline, we will seek relief.

Regards,
Kate

On Jul 22, 2022, at 4:24 PM, Wilson, Bradley R. <BRWilson@wlrk.com> wrote:

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

We continue to have concerns that Defendants are taking a one-sided view regarding the parties' obligations in expedited proceedings. For example, Defendants seek to defer the filing of their Answer (and potential Counterclaims) for another week, but demand that Twitter immediately negotiate search protocols and take various other actions. We think it is clear that Twitter cannot agree to a search protocol before it even knows what contentions/defenses Defendants raise in their Answer (and potential Counterclaims). Moreover, Twitter will want to address in its written discovery requests the contentions/defenses that Defendants raise in the Answer (and potential Counterclaims). That is why the proposed Scheduling Order that Twitter submitted to the Court last Tuesday expressly provided that the first event in the schedule would be Defendants' filing an Answer to the Complaint. Notwithstanding Defendants' delay in responding to the Complaint, Twitter remains committed to moving this case forward consistent with the Court's ruling. Below are brief responses to the specific points raised in your email.

First, with respect to the trial date, as noted on the call the other night and in my prior email, our understanding is the Court will get back to the parties regarding its availability for trial the weeks of October 10 and October 17. Further, our understanding is that both sides are available both of those weeks; to the extent we were to call the Court, rather than wait to hear back from Chambers, we should advise the Court that the parties are available both weeks that were provided and ask for any further information the Court can provide regarding its availability during those weeks. To the extent the Court has sufficient

availability the week of October 17 such that the trial could be completed by the end of that week, we can reserve that week with the Court for trial. If the Court does not have sufficient availability that week, or offers the week of October 10 only, then we need to reserve the week of October 10 for trial. Finally, our willingness to agree to trial in the week of October 17 (as opposed to the week of October 10) is conditioned on your commitment to conclude the trial that week and to not seek additional trial days. Please let us know if that is acceptable and if Defendants would like to organize a call to the Court on these matters.

Second, as noted above, Defendants' demand that Twitter negotiate search terms and custodians before Defendants respond to the Complaint makes no sense and is contrary to the normal process for litigation. Despite Defendants' delay in filing their responsive pleading in this expedited case, Twitter expects to be able to send an *initial* proposed search protocol to Defendants as part of a mutual exchange on Tuesday, July 26, at 12pm ET. For obvious reasons, however, the parties cannot finalize any search protocol until after Defendants file their Answer (and potential Counterclaims).

Third, we continue to believe that Defendants should file their Answer before the July 29 date you now propose, and Defendants also should disclose immediately if they intend to assert Counterclaims. As explained above, every day that Defendants delay in filing those pleadings further delays the parties' ability to move forward with discovery, including negotiating a search protocol.

Fourth, we have sent you the proposed final version of the Confidentiality Order. We will file it as soon as we have your sign-off.

Fifth, enclosed is Twitter's mark-up of the draft Scheduling Order that you provided last night. We are available to discuss, but believe it may be more productive to do so after the Court advises the parties of the specific trial dates.

With regard to the second to last paragraph of your email, once again Defendants purport to impose asymmetrical and arbitrary discovery demands on Plaintiff, while refusing to file a responsive pleading within a reasonable time in this case and not themselves offering to "immediately" produce "undoubtedly relevant [documents] that [defendants] know[] [they] must produce." Discovery is a cooperative endeavor, and while Defendants have made numerous demands on Plaintiff, they have not offered to reciprocate. Moreover, although Twitter agrees that some of the categories of documents you list are relevant, and to produce such documents in accordance with the schedule agreed upon by the parties or ordered by the Court, a number of the categories are not relevant to the issues in the case and are not the proper subjects of discovery.

We of course are available to meet and confer regarding any of these matters.

Regards,
Brad

From: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>

Sent: Thursday, July 21, 2022 11:29 PM

To: Wilson, Bradley R. <BRWilson@wlrk.com>; Emily Kapur <emilykapur@quinnemanuel.com>

Cc: Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP)

<andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKeddy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>

Subject: RE: Twitter v. Musk

*** EXTERNAL EMAIL ***

Brad:

We write in response to the substantive points you raise below:

First, as to trial, we appreciate your agreement to an October 17 trial date. Please let us know what time you are available tomorrow morning so we can call the Court to advise that both parties are available then.

Second, while we accept your proposal regarding the timing of Twitter's responses and objections to Defendants' pending document requests, we reject your proposal that we should wait until the answer is filed to discuss a "reasonable search protocol." There is simply no reason we cannot begin these discussions now, as we proposed yesterday, and it is in fact necessary to begin these discussions now given the compressed schedule (that Twitter requested). Indeed, there is no reason why custodians and search terms cannot be discussed now. Please provide your proposed "search protocol" by tomorrow at 5pm; in the absence of receiving your proposal, we will seek relief from the Court.

Third, Defendants are agreeable to an earlier deadline for filing their answer and are committed to filing by July 29, at which time you will know whether Defendants are asserting counterclaims.

Fourth, Defendants are in agreement regarding the Confidentiality Order and request that you file the order promptly tomorrow morning.

Fifth, attached please find our mark-up of Twitter's proposed schedule, as requested. We are available to meet and confer tomorrow to discuss this further.

In addition to the above, it is noteworthy that there are certain documents that are undoubtedly relevant that Twitter knows it must produce, including but not limited to: board meeting minutes and related materials regarding the Merger; all drafts of the Merger Agreement exchanged; executive level org charts and org charts for Twitter's growth team, metrics task force, product management, investor relations, revenue team, engineering team, trust & safety, safety & integrity, and cybersecurity; documents cited, quoted, or referenced in the Complaint and Motion to Expedite; manuals and policies regarding mDAU, ad sales, advertising metrics, growth metrics, suspension rules, machine learning, and AI; documents responsive to RFP 1 in Defendants' Second Requests for the Production of Documents; all documents, materials and/or data you said you were ready to produce in your July 15 letter; all OC consent requests and responses; all items provided in the data room; all exchanged drafts of the Credit Agreement, Limited Guarantee, and Debt Commitment Letter. Twitter should commence immediate rolling production of these documents without delay. Please confirm that you will agree to do so immediately, and start these rolling productions tomorrow.

Please confirm your agreement to all of the above by no later than 5pm tomorrow, otherwise we intend to raise these issues with the Court.

Thanks,
Kate

From: Wilson, Bradley R. <BRWilson@wlrk.com>
Sent: Thursday, July 21, 2022 8:54 PM
To: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>; Emily Kapur <emilykapur@quinnemanuel.com>
Cc: Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>
Subject: RE: Twitter v. Musk

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

We reject your summary of last night's call, which references remarks that were never made and omits other important aspects of the discussion. Because we do not believe that engaging in a tit-for-tat exchange on the subject would be productive, we decline to do so.

We write instead to address a few substantive points:

First, as we discussed last night, Twitter believes that a prompt trial is essential for all of the reasons it has previously articulated, and would accordingly prefer to begin on October 10. Nevertheless, with the objective of removing points of contention, Twitter will not oppose commencing trial on October 17, if that remains your preference and is agreeable to the Court, provided that the Court has sufficient availability such that the trial could be completed by the end of that week. Once the Court shares its available trial dates with the parties, we will make ourselves available right away to determine the specific days for trial.

Second, as we have explained, Twitter is committed to move quickly to bring this case to trial in accordance with the Court's Order. We note in that regard, however, that expedition works both ways, and your proposed approach—under which Twitter would be obligated to comply with arbitrary and non-orderly deadlines dictated by Defendants, even before the parties have agreed to a schedule let alone a scheduling order, and without Defendants providing any corresponding commitments as to the timing of their own actions—is not reasonable. Most notably, Defendants have proposed to file their Answer on August 3, which is after the 20-day deadline that would apply under the Court's rules in a non-expedited

case. To address this issue, we propose the following: (a) Twitter will serve responses and objections to the pending document requests within two business days after Defendants serve their Answer, and will make itself available to meet and confer about the requests and a reasonable search protocol for identifying responsive documents promptly thereafter; and (b) the parties will agree to a presumptive deadline, applicable to both sides, for serving responses and objections to other document requests.

Third, in addition to reiterating our request that Defendants serve their Answer as promptly as possible, we ask that you please let us know immediately whether Defendants intend to assert Counterclaims. If that is indeed your intention, the need for Defendants to file their responsive pleading is even more urgent.

Fourth, Twitter accepts your proposed revision to paragraph 20(c) of the Confidentiality Order. However, Twitter cannot agree to your proposed insertion of paragraph 6(a). This is not the typical circumstance in which the primary defendant is a large organization, and we are concerned that agreeing to your proposed language would effectively nullify the Highly Confidential tier. Twitter does not intend to over-designate discovery material as Highly Confidential in this case, and we believe that we can address this issue on a document-by-document basis when the time comes. If you would like to meet and confer on this issue, we can make ourselves available tomorrow to do so.

Fifth, we continue to await Defendants' mark-up of our proposed pre-trial schedule. Please send it as soon as you can tonight.

Finally, with regard to the matter of your clients' access to the Firehose and Enterprise API feeds, we are advised that your understanding is not correct. Regardless, we have confirmed that your clients will continue to have access to these feeds through tomorrow and into the future. This continued access is being provided without prejudice to any of Twitter's rights. Your clients have been provided this access pursuant to the provisions of the Merger Agreement that govern your clients' information rights in connection with the Merger and not in the context of this litigation.

Regards,
Brad

From: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>

Sent: Thursday, July 21, 2022 3:47 PM

To: Wilson, Bradley R. <BRWilson@wlrk.com>; Emily Kapur <emilykapur@quinnemanuel.com>

Cc: Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP)

<andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>;

Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>;

Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>;

Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP)

<ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K.

<SEddy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>;

Sadinsky, Alexandra P. <APSadinsky@wlrk.com>

Subject: RE: Twitter v. Musk

*** EXTERNAL EMAIL ***

Counsel,

Notwithstanding Defendants' First RFP # 1, reattached here, we understand the user interface for the Firehose and Enterprise API feeds indicates that Defendants' access to those feeds will terminate tomorrow. Please immediately confirm that Defendants' access will continue. If Twitter does plan to terminate Defendants' access tomorrow, we intend to raise this issue with the Court as well.

Lead Counsel from New York and Delaware remain available today to meet and confer regarding this and the issues raised yesterday.

Best,
Kate

From: Kathryn Bonacorsi

Sent: Thursday, July 21, 2022 12:15 AM

To: Wilson, Bradley R. <BRWilson@wlrk.com>; Emily Kapur <emilykapur@quinnemanuel.com>

Cc: Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKeddy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>

Subject: RE: Twitter v. Musk

Counsel:

We write in response to this evening's correspondence. Neither the tenor of the call, which was marked by serial attempts by plaintiffs' counsel to cut off defense counsel or make rude remarks, nor the substance of the discussion was at all appropriate or consistent with what is required in this Court. We were surprised that Twitter took the position that the parties cannot even discuss key issues like early dates in the schedule until Mr. Musk proposes a date to serve his answer that Twitter finds acceptable. In short, the call was an utter failure because Twitter refuses to proceed forward, despite having sought expedition.

As to your summary, we disagree with your summary of our call:

- **Trial date:** we believe it would ease the burden on the Court if the parties to worked together to agree to either October 10 or 17 as the start date. We sought to understand whether your side had a conflict with the October 17 date, which we believe is more workable overall, including because of the tight timeline until trial. You refused to answer that question, let alone discuss agreeing to one or the other date, instead telling us you were not on the call with the Court and

were not authorized to speak to anyone's schedule. Your position is obviously unproductive because we need to work together on this most basic issue.

- **Pre-Trial Schedule:** Each side provided proposed schedules in advance of the call. We provided ours approximately 40 minutes after you provided yours, and we expected the parties could at least begin to discuss where we might reach agreement and where we could not. Instead, you indicated that you were not willing to discuss the schedule at all. Elevating form over substance, you suggested that you expected us to provide our proposal as redlines to a Word document instead of in the body of an email before you would respond. This absurd request is precisely the type of needless delay that has no place in an expedited case. There is absolutely no reason we cannot discuss proposed dates in whatever format either side proposes them, and we certainly came prepared to discuss your proposed dates. Further, to be clear, we did not say we would provide a counterproposal for an interrogatory limit; we simply said we rejected Twitter's proposed 10-interrogatory limit as it has no basis under the relevant rules. In contrast to your refusal to discuss any of the dates we proposed, we indicated we would take back your request for an earlier answer date and discuss with our team.
- **Ms. Musk Second RFP's 1&2:** We asked about these RFPs because prompt production in response to these RFPs is critical in order for Mr. Musk to have a fair hearing at trial. You responded that we were being unreasonable for asking to speak about them, would not agree to tell us when you would be prepared to speak about them, and instead referred again to Mr. Musk's answer, implying that Twitter may take the position these RFPs are irrelevant. The answer will not bear on these RFPs, and your refusal to even begin to discuss this issue with us is entirely unreasonable in the context of these expedited proceedings. It is evident that after seeking a hyper expedited schedule Twitter is using subterfuge to block progress in discovery. Whatever arguments Twitter has to make about Musk's defenses do not warrant a stay of discovery, particularly given Twitter's request for expedition.
- **Search Terms & Custodians:** There is every reason in this instance, when the Chancellor is unwell and out of the office, for the parties to work together on standard discovery issues in advance of finalizing the trial date. We did not think this would be controversial. The notion that our suggestion that we work on search terms and custodians together to make progress where there is often significant discussion between the parties was somehow unreasonable has no merit. Again, Twitter is blocking reasonable progress for no reason.
- **July 15 Letter:** We explained our position on the July 15 Letter in our July 19 Letter. You did not deny that the documents discussed in the July 15 Letter are available and ready for production, instead asserting that Twitter would produce nothing until after the Answer date is resolved. Having sought expedition, Twitter cannot secure a stay through self-help.
- **Protective Order:** This call would have been the time to address any issues with the Protective Order, but your side came prepared to discuss none, instead pointing to the lack of a protective order as another reason for delay. We trust you will not raise material issues regarding the Protective Order tomorrow.

In short, all of Twitter's positions are nothing but an artifice for delay, a posture that frankly is surprising given that Twitter sought expedition.

Lead Counsel from New York and Delaware are available for a meet and confer all day tomorrow to try to make progress on these issues. Absent clear progress towards agreement on at least the first portion of the schedule by the end of the day tomorrow, we will seek relief from the Court.

Best,
Kate

From: Wilson, Bradley R. <BRWilson@wlrk.com>

Sent: Wednesday, July 20, 2022 9:57 PM

To: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>; Emily Kapur <emilykapur@quinnemanuel.com>

Cc: Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>

Subject: Twitter v. Musk

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

Thank you for organizing this evening's meet-and-confer call. We write to summarize the parties' discussions on that call:

1. **Trial Date:** You asked if Twitter would agree to commence trial on October 17 and present that date to the Court jointly. We explained that it is our understanding, based on the parties' recent call to Chambers, that the Court will be getting back to the parties soon with specific trial dates, which will fall either during the week of October 10 or the week of October 17. We told you that while our preference would be to start trial on October 10 (for all of the reasons set forth in our motion papers and presented at the hearing), we did not think it would be prudent to suggest specific dates given the guidance from Chambers.
2. **Pre-Trial Schedule/Answer to Complaint:** You agreed to send a markup of Twitter's proposed pre-trial schedule tomorrow. You previewed that the 10 interrogatory limit included in our proposed schedule is not acceptable and said that you would make a counterproposal as to the limit, which we said we would consider. We also asked that you answer the Complaint by this Friday, July 22, so the parties can properly factor that pleading into their thinking about the appropriate scope of discovery, in accordance with customary practice. You said that Defendants would not answer on Friday, claiming that our request was unreasonable and suggesting that the Answer would not be illuminative as to the scope of discovery because we should assume that your clients will deny all of the Complaint's allegations. We ask you to reconsider your position and commit to filing your Answer far sooner than you are currently proposing to do (i.e. August 3).
3. **Defendants' Second RFPs (RFPs 1 & 2):** You specifically inquired about Request Nos. 1 and 2 in your clients' second set of RFPs, which you had served only hours before the meet and confer. You stated that your experts need the data sought in those two Requests as soon as possible and asked us to tell you—more or less immediately—our clients' position regarding them. We told you that it was unreasonable to ask us to engage in a substantive discussion about discovery requests served only this afternoon, particularly given that your clients have neither served their Answer nor committed to doing so on any reasonable timeline. You

nevertheless asked that we provide Twitter's position on these two requests in "a couple of days," and we told you that we would take that question under advisement.

4. **Search Terms & Custodians:** You asked that we send you Twitter's proposed custodians and search terms tomorrow. We do not believe this is a reasonable request, nor one that is consistent with customary practice in this Court, and we communicated that view on the call. Although we are prepared to cooperate with reasonable discovery requests and work expeditiously to prepare this case for trial by mid-October, there is no basis for you to insist for information of this kind before your clients have Answered; before the parties have finalized a pre-trial schedule; before Twitter has served responses and objections to the relevant RFPs; and before we have held a single meet-and-confer call about the scope of discovery. This is the traditional order of things, even in expedited cases, and you provided no justification on the call for departing from this sensible practice.
5. **July 15 Letter:** You requested that Twitter immediately produce the data and information offered to your clients for in-person review (subject to the enumerated terms and conditions) in the letter sent by Messrs. Korman and Klein on July 15. We explained that the July 15 letter was sent pursuant to the provisions of the Merger Agreement that govern your clients' information rights in connection with the Merger and not in the context of this litigation. We explained that for purposes of this litigation, Twitter would consider any document request seeking the documents described in the July 15 letter and respond to such request in the ordinary course. We further explained that if your clients are interested in reviewing the documents described in the July 15 letter for a proper purpose related to the Merger, you should follow up with Messrs. Korman and Klein.
6. **Protective Order:** You asked that we send you a mark-up of the protective order by tomorrow, and we agreed to do so.

We look forward to receiving your mark-up of the pre-trial schedule.

Regards,
Brad

Bradley R. Wilson

Wachtell, Lipton, Rosen & Katz
51 West 52nd Street | New York, NY 10019
+1 (212) 403-1108 (Direct) | +1 (212) 403-2108 (Fax)
BRWilson@wlrk.com | www.wlrk.com

=====
Please be advised that this transmittal may be a confidential attorney-client communication or may otherwise be privileged or confidential. If you are not the intended recipient, please do not read, copy or re-transmit this communication. If you have received this communication in error, please notify us by e-mail (helpdesk@wlrk.com) or by telephone (call us collect at 212-403-4357) and delete this message and any attachments.

Thank you in advance for your cooperation and assistance.

=====

TWITTER'S SEARCH PROTOCOL: DEFENDANTS' COUNTERPROPOSAL

I. Custodians

Defendants request the below additions to Plaintiff's list of proposed custodians. Defendants request that the appropriate individuals from Twitter's security, engineering, products/revenue, investor relations, finance/accounting, and legal departments also be include as custodians. In particular, Defendants request that Plaintiff include individuals from the finance department that are involved in developing, measuring, monitoring, and managing KPIs including mDAU, individuals in whichever department they reside that are involved in Twitter's efforts to estimate the prevalence of false and spam accounts among mDAU, and individuals from the engineering department who are primarily responsible for the technology used in the suspension workflow to detect spam/false accounts. As explained during yesterday's meet and confer and in this morning's correspondence, Defendants are limited in their ability to assess who the appropriate custodians are from any given department or group given their lack of insight into Twitter's organizational and reporting structure. Defendants therefore reiterate their request that Twitter immediately produce org charts or other basic foundational documents reflecting Twitter's organizational and reporting structure. Defendants will not agree to a final custodian list unless and until Twitter provides these basic, non-objectionable and readily accessible documents. Defendants reserve all rights to revise the list below or request additional custodians, including following the receipt of additional information from Twitter.

1. Parag Agrawal
2. Emmy Anargyros
3. Stacey Conti
4. Todd Doughty
5. Egon Durban
6. Robert Kaiden
7. Martha Lane Fox
8. Patrick Pichette
9. Yoel Roth
10. Ned Segal
11. Bret Taylor
12. [REDACTED]
13. [Jack Dorsey](#)
14. [Leslie Berland](#)
15. [Sarah Personette](#)
16. [Lindsey Iannucci](#)
17. [Vijaya Gadde](#)
18. [Nick Caldwell](#)
19. [Jay Sullivan](#)
20. [REDACTED]
21. [REDACTED]
22. [Mimi Alemayehou](#)
23. [Omid Kordestani](#)
24. [Dr. Fei-Fei Li](#)

- 25. David Rosenblatt
- 26. Peiter "Mudge" Zatko
- 27. [REDACTED]
- 28. [REDACTED]
- 29. [REDACTED]
- 30. [REDACTED]
- 31. [REDACTED]
- 32. [REDACTED]
- 33. [REDACTED]
- 34. [REDACTED]
- 35. Luke Simon
- 36. Kayvon Beykpour
- 37. Bruce Falck
- 38. [REDACTED]
- 39. [REDACTED]
- 40. [REDACTED]
- 41. [REDACTED]
- 42. [REDACTED]
- 43. [REDACTED]
- 44. [REDACTED]
- 45. [REDACTED]
- 46. [REDACTED]
- 47. Krista Bessinger
- 48. [REDACTED]
- 49. [REDACTED]
- 50. [REDACTED]
- 51. [REDACTED]
- 52. Julianna Hayes
- 53. [REDACTED]
- 54. [REDACTED]
- 55. Sean Edgett
- 56. Kevin Cope
- 57. [REDACTED]
- 58. [REDACTED]
- 59. [REDACTED]
- 12-60. [REDACTED]

II. Search Terms and Date Range

Regarding the appropriate date range, Defendants request date range(s) consistent with the date ranges requested in Defendants' Requests for the Production of Documents.

Defendants request the following changes to Plaintiff's proposed search terms:

1	Musk*
---	-------

2	Elon*
3	Excession
4	“take private”
5	Merge* /5 agree*
6	Merge* /5 negotiat*
7	Merge* /5 approv*
8	Merge* /5 discuss*
9	“seller-friendly”
10	“seller friendly”
11	“Tender offer”
12	Tender /5 share*
13	“X Holdings”
14	“Project X”
15	Tugboat*
16	Tundra*
17	Lunar*
18	Tango*
19	Ringler*
20	Spiro
21	Spiro’s
22	Korman
23	Korman’s
24	Claassen*
25	Classen*
26	Andreessen*
27	Swan
28	Swan’s
29	Gracias
30	Birchall
31	Julian.mettmann@morganstanley.com
32	Kate.claassen@morganstanley.com
33	Anton.mayr@morganstanley.com
34	Anthony.armstrong@morganstanley.com
35	Steve.weiner@morganstanley.com
36	Beth.lebow@davispolk.com
37	Stephen.salmon@davispolk.com
38	Alan.denenberg@davispolk.com
39	Alex.moss@davispolk.com
40	Noah.wintroub@jpmorgan.com
41	David.m.gruen@jpmorgan.com
42	Marco.j.caggiano@jpmorgan.com
43	Eric.menell@jpmorgan.com
44	Sam.britton@gs.com
45	Stefani.silverstein@gs.com
46	Kim-thu.posnett@gs.com

47	Bill.fox@gs.com
48	Adeeb.sahar@skadden.com
49	Mike.ringler@skadden.com
50	Sonia.nijjar@skadden.com
51	Dohyun.kim@skadden.com
52	Laura.Kaufmann@skadden.com
53	Alexspiro@quinnemanuel.com
54	Mkorman@wsgr.com
55	mDAU /5 spam
56	mDAU /5 bot <u>OR</u> bots*
57	mDAU /5 false
58	mDAU /5 fake
59	mDAU /5 estimat *
60	mDAU /5 audit *
61	Spam* /5 account*
62	Spam* /5 bot*
63	Spam* /5 identif*
64	Spam* /5 audit*
65	Financing /10 debt
66	Financing /10 equity
67	Join* /5 board
68	“company case”
69	“ cash flow project*ions”
70	“ retention program”
71	“compensation committee” /15 retention
72	Firehose
73	Account* /5 false
74	Account* /5 fake
75	Account* /5 bot*
76	SEC /5 diselos *
77	Sampling
78	ADAP
79	“Contractor agent”
80	Human review*
81	Human label*
82	“Quality Analyst” <u>OR</u> QA
83	Information /3 request*
84	Info* /5 formation right*
85	Hiring /5 pause
86	Hiring /5 freeze
87	Hiring /5 slowdown
88	Layoff*
89	“lay off”
90	“Talent acquisition”
91	“Recruiting staff”

92	Consent- <u>3 right*</u>
93	<u>Consent* / 5 (withhold* or withheld)</u>
94	<u>Consent* / 5 reasonabl*</u>
95	“Credit facility”
96	Fir* /10 Falck
97	Fir* /10 Beykpour
98	[REDACTED]
99	[REDACTED]
100	[REDACTED]
101	Terminat* /10 Falck
102	Terminat* /10 Beykpour
103	[REDACTED]
104	[REDACTED]
105	[REDACTED]
106	Resign* /10 Falck
107	Resign* /10 Beykpour
108	[REDACTED]
109	[REDACTED]
110	[REDACTED]
111	Depart* /10 Falck
112	Depart* /10 Beykpour
113	[REDACTED]
114	[REDACTED]
115	[REDACTED]
116	Concentrix*
<u>117</u>	<u>\$54.20</u>
<u>118</u>	<u>monetiz*</u>
<u>119</u>	<u>“daily active”</u>
<u>120</u>	<u>“false accounts”</u>
<u>121</u>	<u>scam</u>
<u>122</u>	<u>Merger</u>
<u>123</u>	<u>Restate*</u>
<u>124</u>	<u>Forecast</u>
<u>125</u>	<u>Goldman</u>
<u>126</u>	<u>GS</u>
<u>127</u>	<u>JP</u>
<u>128</u>	<u>JPM</u>
<u>129</u>	<u>MS</u>
<u>130</u>	<u>“Morgan Stanley”</u>
<u>131</u>	<u>Skadden</u>
<u>132</u>	<u>Wilson</u>
<u>133</u>	<u>WSGR</u>
<u>134</u>	<u>Marty</u>
<u>135</u>	<u>Martin</u>
<u>136</u>	<u>Simpson</u>

<u>137</u>	<u>STB</u>
<u>138</u>	<u>Klein</u>
<u>139</u>	<u>“free speech”</u>
<u>140</u>	<u>Trump</u>
<u>141</u>	<u>engagement</u>
<u>142</u>	<u>traffic</u>
<u>143</u>	<u>impressions</u>
<u>144</u>	<u>CPM</u>
<u>145</u>	<u>Clicks</u>
<u>146</u>	<u>CPC</u>
<u>147</u>	<u>Conversion</u>
<u>148</u>	<u>Reach</u>
<u>149</u>	<u>CTR</u>
<u>150</u>	<u>firing</u>
<u>151</u>	<u>bonus</u>
<u>152</u>	<u>KPI</u>
<u>153</u>	<u>(financial or performance) /10 (indicator or metric)</u>
<u>154</u>	<u>valu*</u>
<u>155</u>	<u>financial /10 model</u>
<u>156</u>	<u>“pro forma”</u>
<u>157</u>	<u>financial /5 statement</u>
<u>158</u>	<u>phish*</u>
<u>159</u>	<u>malware</u>
<u>160</u>	<u>bulk</u>
<u>161</u>	<u>hijack*</u>
<u>162</u>	<u>compromise*</u>
<u>163</u>	<u>inflat*</u>
<u>164</u>	<u>indiscriminate</u>
<u>165</u>	<u>automate*</u>
<u>166</u>	<u>churn</u>
<u>167</u>	<u>suspen*</u>
<u>168</u>	<u>read-only or “read only” or “readonly”</u>
<u>169</u>	<u>protected</u>
<u>170</u>	<u>user-day</u>
<u>171</u>	<u>“real user spam”</u>
<u>172</u>	<u>“profile not found”</u>
<u>173</u>	<u>Appen</u>
<u>174</u>	<u>labeler*</u>
<u>175</u>	<u>Innodata</u>
<u>176</u>	<u>*eligible</u>
<u>177</u>	<u>\$315,000,000 OR “\$ 315,000,000” OR “315 million” OR “315 mil” OR “\$315 million” OR “\$315 mil” OR 315M OR \$315M</u>
<u>178</u>	<u>“platform manipulation”</u>
<u>179</u>	<u>“platform integrity”</u>
<u>180</u>	<u>Karnataka</u>

<u>181</u>	<u>Bangalore</u>
<u>182</u>	<u>New Delhi</u>
<u>183</u>	<u>“blocking order”</u>
<u>184</u>	<u>Consideration</u>
<u>185</u>	<u>“additive targeting”</u>
<u>186</u>	<u>“restrictive targeting”</u>
<u>187</u>	<u>spam* /5 (user* or profile* or false* or fake* or mal* or auto* or detect* or behavior or activity)</u>

Exhibit G

From: Silpa Maruri
Sent: Monday, August 1, 2022 1:54 PM
To: Wilson, Bradley R.; Kathryn Bonacorsi
Cc: Emily Kapur; Andrew J. Rossman; Alex Spiro; Christopher Kercher; Matthew Fox; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP); Rosenello, Lauren N; Shannon, Kevin R. (Potter Anderson & Corroon LLP); Kelly, Christopher N. (Potter Anderson & Corroon LLP); Savitt, William D.; Eddy, Sarah K.; McLeod, Ryan A.; Reddy, Anitha; Yavitz, Noah B.; Goodman, Adam L.; Sadinsky, Alexandra P.; Slight, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC); Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC)
Subject: RE: Twitter v. Musk

Brad:

We write to address and clarify several points you raise below.

1. Plaintiff's Email Custodians and Collection: We find it surprising that Twitter has raised issue with the status of Defendants' collection efforts given its own incomplete performance. During our call, you stated that you have not collected documents from three of your own proposed custodians and that you have not collected any documents from any contested custodians. You failed to provide any timeline for when such collections would be completed. Moreover, we understand that even with respect to the remainder, your only representation was that you had collected email data—not that you had collected the full repository of information that they possess (such as personal devices, cloud-based materials, text messages, direct messages). Again, you did not explain when you expect to complete those collections. While Plaintiff nonetheless attempted to suggest that Defendants' collection is the bigger issue, as Defendants noted, Defendants have far less to collect and do not anticipate any trouble meeting the document production deadline. Please advise as to when Plaintiff's collection efforts began, when its review of documents commenced, and what it intends to produce on the August 4th deadline.
2. Defendants' Collection Efforts & Review: Plaintiff's suggestion that there is anything concerning about Defendants' collection is entirely misplaced. As we explained on our call – just as we have explained on prior calls – we started our collection efforts as soon as Twitter filed suit and have been working diligently to collect relevant documents. As we also explained on the call, we have collected from Mr. Musk's main email account (Tesla), and we expect to be done collecting from his secondary account shortly, as well as from Mr. Birchall's account. We do not expect to have any issues meeting the court-ordered deadlines. Indeed, as we confirmed to you, we have agreed to start our document review immediately. We therefore do not understand your stated "concern" about the progress of our collection, particularly where your own collection is far from complete.

With respect to our method of collecting, following efforts to confirm certain issues following our call, we can confirm upon further discussion with our vendor that we collected Mr. Musk's entire Tesla email account, and that collection is reflected in the hit report we already provided. As noted, we will start reviewing those documents immediately. As for Mr. Birchall's email account, we can confirm we are in the process of collecting his entire Excession email account. However, as for Mr. Musk's SpaceX account, we will have to revert as to whether we can collect the entire account, rather than run your proposed search terms across it and collect those documents into the review database. This account – which Mr. Musk did not use frequently to discuss or communicate about the present dispute or issues related to Tesla – contains documents and communications implicating national security. We are in discussions with SpaceX to assess whether there is a feasible work

around. However, we would be surprised if the search term approach on this account only presents an issue, given that you have represented that you are not willing to do a full email collection for at least one of your custodians, Egon Durban, and instead intend to proceed exactly as we have proposed for Mr. Musk's secondary email account at SpaceX. Mr. Durban does not have the same privacy or national security considerations as Mr. Musk does as to his SpaceX account, and it appears Plaintiff is proposing this mode of collection from Mr. Durban's main email account.

3. Twitter's Outside Directors: As noted above, we are highly concerned by the incongruous position that Plaintiff has taken regarding its collection obligations as to Egon Durban, a director, and the collection obligations of Defendants. Plaintiff advised that it would not collect Mr. Durban's full email account and would instead only collect documents that hit on certain search terms, due to Mr. Durban's unspecified privacy concerns. As noted above, Defendants advised that this position was inconsistent with the position that Plaintiff has taken with respect to Mr. Musk, who has much more significant data privacy concerns than those stated by Mr. Durban. The approach as to Mr. Durban is also inconsistent with how Plaintiff is collecting the remaining directors' emails: Plaintiff explained that as to the remaining outside directors on its custodian list, the directors' counsel, Simpson Thacher, is going to conduct a review for responsiveness before providing Plaintiff with documents resulting from that review. Plaintiff will then conduct its own review using the agreed on search terms, and will further assess responsiveness, as well as privilege. Even that review is inconsistent with Plaintiff's position regarding Mr. Musk. We ask that you confirm your final position with respect to Mr. Durban's email account by tomorrow.
4. Twitter's email custodians: We are increasingly concerned by the delays we have encountered regarding the receipt of information regarding Twitter's custodians, as well as basic information about Twitter's organizational structure. During our call, we were forced to rehash explanations that we have previously provided regarding what types of custodians we are seeking and why – information that Twitter's counsel did not have handy. In light of these facts, we are surprised by your suggestion that Defendants are the reason for any delay regarding finalization of Twitter's custodial list.

Regarding Twitter's email custodians, we explained on the call that most of Twitter's proposed custodians are unlikely to have information regarding the core issues in this case, including the issues raised in our counterclaims, which you suggested you had not yet studied closely. Among other omissions – and as explained on the call – we are concerned by the lack of individuals involved in Twitter's day-to-day operations, as those individuals are very likely to have relevant information. We are also concerned by your seeming unwillingness to provide custodians who no longer work at Twitter; the fact that an individual does not work at Twitter is not a basis for exclusion, particularly given that our counterclaims contain allegations that go well past the "relevant time period" that you have insisted upon. Given the high turnover rate of employees at Twitter, the custodians will necessarily include former employees. As you are undoubtedly aware, it is standard in litigation to include former employees as custodians, and we expect your next counterproposal to include former employees.

We also discussed in detail the following specific types of custodians that are missing from your counterproposal. We were disappointed to have to review these categories again, which had already been shared by email and discussed during prior phone calls. Nevertheless, during the call, Plaintiff committed to investigate the following categories and to provide its responses to us today:

- a. Spam Detection and Prevention. Defendants asked Plaintiff to identify which custodian on its proposed list falls within this category and, if none of the custodians fall within this category, to identify an additional custodian who does. Plaintiff stated that Yoel Roth, one of its proposed custodians, is responsible for combatting spam on the platform. Consistent with prior email correspondence, Defendants again proposed adding ██████████ as an additional custodian. Plaintiff agreed to consider the addition of ██████████ and agreed to confirm whether ██████████ possesses the relevant information that Defendants expect she does. Regarding Yoel Roth, Defendants asked Plaintiff to identify how large Mr. Roth's department is and how many direct and indirect reports he

has. Defendants also asked Plaintiff to confirm whether Mr. Roth's department is both responsible for setting policy goals and implementing the procedures to achieve those goals, or whether those two responsibilities are handled by different departments. Plaintiff agreed to investigate whether those two responsibilities are handled by Mr. Roth's department or by different departments. To the extent different departments handle them, Defendants stated they would request a custodian from each department.

- b. mDAU Audit Process. Defendants requested clarification regarding whether Emmy Anargyros and Todd Doughty are both involved in the mDAU audit process. Plaintiff explained that Mr. Doughty was more involved in calculating the overall mDAU, but did not know whether he had direct involvement in the actual audit process. Defendants asked Plaintiff to identify the department that Mr. Doughty works in and to whom Mr. Doughty reports. Plaintiff agreed to provide such information. Defendants also asked Plaintiff to identify how many people are on the committee that reviews the audit process, and informed Plaintiff that Defendants' position is that all such committee members should be document custodians. Plaintiff stated its belief that it is a one-person committee, but agreed to confirm who is on the committee.
- c. mDAU audit vendors. Defendants asked Plaintiff to confirm that Concentrix is the only vendor Twitter used for the mDAU audits, and Plaintiff stated that Concentrix is the only vendor that was used during "the relevant period," which Plaintiff identified as the fourth quarter of 2021. In response, Defendants asked Plaintiff to investigate whether there are any other vendors that Twitter used in connection with the mDAU audits during Defendants' proposed relevant period. Plaintiff agreed to investigate and provide that information. Defendants also asked that Plaintiff provide further information on Innodata, including whether they are involved in the mDAU audit process. Plaintiff agreed to do so.
- d. Relationship Between mDAU and Revenue. Defendants also stated that they did not see anyone on Plaintiff's custodian list who would be likely to have relevant information on this topic. While Plaintiff suggested the finance people on its custodian list would have relevant information on this topic, Plaintiff was unable to say whether any of the individuals were principally concerned with creating projections and forecasts regarding mDAU, setting the mDAU targets, and analyzing how mDAU relates to revenue. Plaintiff agreed to investigate who at Twitter is responsible for each of these functions.
- e. Investor Relations. Defendants asked Plaintiff to identify the size of the Investor Relations department, and to identify Ms. Bessinger's direct and indirect reports. Plaintiff agreed to investigate and provide this information.
- f. User Data. Defendants explained that they are looking to add the person behind collecting, maintaining, and monitoring user data. Plaintiff suggested there may not be a person who could be added as a custodian on this topic, but agreed to investigate. For examples of the types of user data we are interested in, please see RFPs 1-4 & 41 in the revised set of RFPs we served Friday night.
- g. Investigations. Defendants clarified that they are looking for a document custodian with information related to the lawsuit in India and the history regarding censorship in India that predated that lawsuit. Plaintiff agreed to investigate whether there is someone other than the General Counsel who is involved in the India lawsuit, and to report as to who that is.
- h. Determining KPIs and Metrics to Track. While Plaintiff suggested that they did not understand the relevance of this request, Defendants clarified that this request bears on the good faith of Twitter's SEC disclosures. Defendants clarified that they are looking to add as a custodian the person or people who would have relevant information about Twitter's determination of which KPIs to track and who is actually tracking the KPIs. To the extent the tracking is performed by a computer program, Defendants are seeking the person who decides what data is being input into the program, and the person who

analyzes the outputs from the program. Defendants also asked for the identification of any databases that are relevant to this question to the extent that databases are used to track this information. Plaintiff committed to look into these questions.

- i. Firehose. Defendants asked that the individuals who set up the custom firehose in response to certain of Defendants' earlier information requests be added as custodians. Defendants believe these individuals are [REDACTED] and [REDACTED]. Defendants believe a date range from May 1, 2022 to present would be appropriate for such custodians. Please advise as to whether these custodians will be added.

We also discussed the rejection of certain custodians that we proposed, namely, Kayvon Beykpour, [REDACTED], and [REDACTED]. Defendants elaborated on why these individuals may be relevant custodians: (1) Mr. Beykpour's termination forms the basis of one of Defendants' counterclaims, and we also have strong reason to believe he was involved in spam auditing, given he was the signatory on one of Twitter's agreements with a third party vendor that appears to have had a role in auditing; (2) [REDACTED] seems to have worked in the Planning & Analysis group, and based on public information, it seems that that group may be involved in the types of projections and targets we are interested in; and (3) [REDACTED] is a [REDACTED] which also suggests he may be involved in our identified areas of interest. Plaintiff agreed to consider adding these individuals as custodians.

Finally, while we noted that we would be amenable to discuss dropping certain custodians from the list, that discussion is premature unless and until we have a more complete list of custodians, including those identified above and those in the groups above. When Twitter advised Defendants that it would commence its review, we noted that we had no objection but were reserving our rights to add custodians; that Defendants are willing (based on Twitter's request) to consider removing certain custodians is only indicative of the reasonableness of their position, and Plaintiff cannot feign surprise or use its decision to commence review to limit these discussions. Moreover, while Twitter attempts to paint this issue as one of delay on Defendants' part, we have been requesting information regarding custodians for nearly a week. As a result, we reiterate our request that you provide the requested information today to avoid any further delays. Any burden associated with commencing review of Twitter's self-selected list of custodians— without regard to the custodians we have proposed— is entirely one of your own making, and one that it is in your power to alleviate by providing the requested information quickly.

5. Text Message Review: While Plaintiff proposed that the parties agree to conduct a linear review of text messages, as we stated on the call, we cannot assess and consider your proposal of conducting a linear review until Plaintiff provides a proposal regarding the individuals whose communications it seeks to collect, in order to assess the burden associated with a non-search term assisted review. You agreed to provide this information. Please do so promptly to avoid any delay in our consideration of this issue. You also stated that while Plaintiff was willing to reciprocate this arrangement, you were not sure all of Plaintiff's document custodians would be appropriate text/direct message custodians. When we asked you to clarify which custodians you believed would not be proper text message custodians, you told us that you were not in a position to advise us on the call, but that you would tell us your position at a later point. Please advise on your position as to these issues promptly so that we can fully consider your proposal.
6. Data Scientists: During our call, you asked us to consider whether we would provide you with the names of our consulting experts, and the dates of their engagement. You've mischaracterized our response regarding the positions that we took with respect to such scientists; during our call, we asked you questions regarding why you felt you were entitled to this information. We told you we would consider your request, and revert with our positions regarding whether we would provide the requested information. Having considered your request, we do not believe that you are entitled to his information, and you have not identified any obligation that we have under the rules of discovery to share the identities of these data scientists with you.

7. Jack Dorsey. Plaintiff confirmed it is collecting Mr. Dorsey's Twitter e-mail account and any other custodial documents for Mr. Dorsey that are housed at Twitter. Plaintiff stated that Mr. Dorsey, who is no longer affiliated with the company and is being represented by George Garvey of Munger, Tolles & Olson LLP, has not agreed to provide any additional documents for collection. Plaintiff also stated it does not believe there is a cooperation agreement in place with Mr. Dorsey.
8. Slack Messages: In response to your questions regarding Slack, our understanding is that neither Mr. Birchall nor Mr. Musk used any messaging app or program to communicate about matters relevant to this litigation. We will specifically ask about Slack and revert once we have confirmation.
9. Google Drive. Plaintiff agreed to revert with its proposal regarding the collection of documents stored on Google Drive. Plaintiff also agreed to revert regarding whether there are any other cloud-based sources that may have relevant information for its document custodians.

Please let us know when we can expect to receive the information you have agreed to provide, so we can schedule our next meet and confer. As to many of the items listed above, we were told to expect answers today, which we have yet to receive. Thank you.

Regards,
Silpa

From: Wilson, Bradley R. <BRWilson@wlrk.com>

Sent: Sunday, July 31, 2022 10:44 PM

To: Silpa Maruri <silpamaruri@quinnemanuel.com>; Kathryn Bonacorsi <kathrynbbonacorsi@quinnemanuel.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SEddy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBYavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slights, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

We write to summarize the parties' discussions on this afternoon's meet-and-confer call:

1. Email Collection: You informed us that you have not yet collected the entire contents (pertaining to the relevant time period) of any of the three email accounts you've committed to search, and that to date you have only been able to make a partial collection from Mr. Musk's Tesla account. As we explained, the state of defendants' email collection efforts is concerning. Twitter filed this lawsuit nearly three weeks ago, and it was entirely foreseeable that we would be seeking the production of Mr. Musk's and Mr. Birchall's emails. We accordingly do not understand why these collections were not completed many days ago.

Moreover, even apart from the question of timing, the fact that defendants had not been planning to collect the entire contents of any of the email accounts that you have identified as containing relevant documents is neither reasonable nor consistent with Delaware practice. This is especially true with respect to the accounts used by Mr. Musk, who is the primary defendant in the case and far and away its most important witness. To reiterate the request we made on the call: We ask that defendants either (a) agree to collect Mr. Musk's and Mr. Birchall's entire email accounts for the relevant time period, and commit to doing so immediately, or (b) provide an explanation as to why they are refusing to do so. We further request (as conveyed on the call) that defendants either provide this information tonight, or let us know a time certain by which they will provide it.

2. Email Review: Compounding Twitter's concerns, you also informed us on the call that defendants have not yet commenced a responsiveness review process for even the subset of emails that you have collected to date. Although you expressed confidence that defendants would nevertheless meet the substantial completion deadline, the Scheduling Order requires both sides to have commenced a rolling production of documents by August 4.

Following our discussion of this issue, you agreed that defendants would immediately commence a review of emails hitting on those of Twitter's proposed search terms to which you do not object, pending further discussions about our search term proposal (which we agreed would take place early this week). We appreciate your commitment to start this review. Please let us know when defendants anticipate commencing their production of responsive emails.

3. Text Message Review: We stated Twitter's position that a linear review of Mr. Musk's and Mr. Birchall's text messages, supplemented by application of search terms across all of their text messages, was appropriate in this matter. You asked whether Twitter would apply the same process to its custodians, and we agreed to do so for at least a subset of Twitter's email custodians, based on each individual's relative level of involvement in the events underlying this litigation and bearing in mind Twitter's reasonable concerns about its overall review burden in this expedited case. On the call, you seemed amenable to the text message review approach that we discussed, but you indicated that you would need to discuss our proposal further with your team. We look forward to hearing back from you on this issue.

We did not get into detail on this afternoon's call about the review protocol for Twitter DMs. We will plan to raise that issue when next we speak.

4. Data Scientists: We again asked that you identify the data scientists retained by Mr. Musk (and/or his advisors) to analyze data that he received from Twitter. You again declined to do so on the basis of the attorney-client privilege and the work-product protection, and you further reiterated your position that defendants' refusal even to provide the identity of these data scientists is justified on the ground that they are consulting experts for defendants.

To facilitate our evaluation of that claim in particular, in keeping with defendants' burden to justify any claim of privilege, we asked that you identify (a) the date such data scientists were engaged by Mr. Musk, and (b) if different from the date of engagement, the date on which they became consulting experts with respect to this litigation. You declined to provide this information during our call, but agreed to present our requests to your broader team and revert. As we explained, defendants' refusal to date to identify the specified data scientists is prejudicing Twitter's ability to build a record in this expedited case, specifically by thwarting our intention of serving subpoenas on the data scientists. Accordingly, to reiterate the request we made during this afternoon's call, we ask that defendants provide responses to the foregoing questions (a) and (b) by tomorrow.

5. Slack & Other Messaging Services: We informed you that we are in the process of collecting Slack communications from our proposed Twitter custodians. You represented that you did not have a basis to believe that either Mr. Musk or Mr. Birchall used Slack or any other instant messaging services to communicate about matters relevant to this litigation. Please confirm that you have asked Mr. Musk and Mr. Birchall whether they in fact used such instant messaging services to send or receive potentially relevant communications, and that they have affirmatively advised you they did not do so.
6. Twitter's Email Custodians: During the call, we had an extensive back-and-forth discussion regarding Twitter's proposed custodians. In the course of that discussion, you asked for additional information regarding several of Twitter's proposed email custodians, including their positions and responsibilities at Twitter, as well as their place in the broader structure of the organization. We provided the information you requested to the best of our ability, based on our investigation to date, and committed to revert promptly in instances where we did not have the requested information readily at hand. You also described in further detail specific subject areas that you believe were not addressed by the email custodian proposal we sent yesterday.

As we told you during the call, we intend to devote significant attention to this issue as a priority matter to obtain answers to your open questions and determine whether it is appropriate to supplement our proposed email custodian list based on the further details you provided. We expect to revert on these issues by the end of the day tomorrow. If we determine that we will need more time to provide a substantive response, we will so advise you as promptly as possible tomorrow. Once we have provided the additional information you requested, we will be prepared to meet-and-confer again in an effort to finalize the list of Twitter's email custodians. As we have explained, we believe it is imperative that we resolve this threshold issue very promptly.

You also indicated that defendants are amenable to dropping several individuals from Twitter's list of proposed email custodians, on the ground that defendants do not require their documents, but you declined our request on this afternoon's call that you identify such individuals. As we have explained, Twitter is devoting substantial resources to the review process—indeed, Twitter's review of emails and other documents is well underway, with email collections having been completed for the vast majority of Twitter's proposed email custodians. Given the very real possibility that Twitter is actively reviewing emails belonging to individuals that defendants expect to drop as custodians eventually, your unwillingness to identify those individuals now is unreasonable and is imposing an unnecessary incremental burden on Twitter. We accordingly ask that you reconsider the position you took on the call and let us know now which of Twitter's proposed email custodians defendants wish to drop from the list.

Regards,
Brad

From: Wilson, Bradley R.

Sent: Sunday, July 31, 2022 2:29 PM

To: 'Silpa Maruri' <silpamaruri@quinnemanuel.com>; Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod,

Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBVavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slight, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

We are available at 4:00 p.m. EDT. We will send a dial-in shortly.

From: Silpa Maruri <silpamaruri@quinnemanuel.com>

Sent: Sunday, July 31, 2022 1:40 PM

To: Wilson, Bradley R. <BRWilson@wlrk.com>; Kathryn Bonacorsi <kathrynbacorsi@quinnemanuel.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBVavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slight, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

*** EXTERNAL EMAIL ***

Brad:

We are available to meet and confer today at 4 p.m. EST. If that works for your team, please circulate a dial in. As for your email below, we write to address and clarify a few points in advance of our call. We reserve our rights with respect to any points not specifically addressed below.

1. Email Custodians: Thank you for your counterproposal. Unfortunately, it is insufficient for several reasons. Among other things, we need not only the heads of relevant departments (*e.g.* Accounting, Finance, Trust and Safety), but also those with day-to-day roles and responsibilities *within* those departments. In fact, such individuals are even more likely to have relevant documents regarding Twitter's operations. Your omission of any such individuals is not acceptable. In your July 28 email, you committed either to providing a supplemental org chart or to explaining on the next meet and confer how your list ties "to the topics you have said you are focused on." As you have failed to supplement the bare bones "org chart" you produced, we look forward to hearing your explanation on today's meet and confer, as your proposal omits many of the categories we advised you that we were focused on. We would also like an explanation as to why you did not include in your counterproposal the individuals we specifically requested: Kayvon Beykpour, [REDACTED], [REDACTED], and [REDACTED]. With respect to Mr. Beykpour in particular, we allege that his firing was a breach of the ordinary course covenant. It is therefore essential you collect his documents.

While we look forward to discussing Concentrix as custodian – given that its employees were given @Twitter email addresses – we ask that you confirm Concentrix is the only vendor Twitter uses for mDAU sampling, and has been since 2020. We understand that Innodata had some role in mDAU/spam review. If any of their employees have (or had) @Twitter email addresses, we request that you add them as custodians as well.

2. Collection Efforts: Your suggestion that we have somehow delayed our collection is surprising, given the ongoing issues we have had in securing information from Twitter, including the issues described above. It is also surprising given the Court issued the scheduling order just *three days* ago. In any event, any such suggestion by Twitter makes little sense, given that Twitter refused to have any discussions about custodians or search protocols until less than a week ago. While Twitter filed suit on June 12, Defendants attempted to negotiate custodians within days of that filing and were repeatedly rebuffed (per the email exchanges below). As a result of these needless delays on *Twitters'* part, discussions regarding the appropriate list of custodians were delayed until five days ago. In its email correspondence, Twitter makes no representations that it has collected all of the data for the custodians that Defendants have requested, yet suggests that Defendants have somehow failed to comply with their discovery obligations because their collection efforts are not complete. Regardless, your suggestion that Defendants are failing to comply with their discovery obligations is misplaced. As we have explained during our numerous discussions and correspondence, we have already collected a substantial amount of documents since you filed this expedited litigation. We have furnished Twitter with an interim hit report consistent with these efforts, and have committed to providing updated hit reports as this process continues. We are happy to discuss our collection efforts further should you have additional concerns, as we certainly have concerns about your own collection efforts.
3. Third Party Discovery: We have accepted service of the subpoena on Mr. Gracias and are available to meet and confer tomorrow from 3:30-4:30pm EST, as we have communicated to Kobre & Kim.
4. Data Scientists: We are deeply concerned by your continuing failure to provide us with the authority for your position that you are entitled to discovery from data scientists working in connection with this matter. Discovery from any consulting experts is not permitted under the rules, nor are their identities the relevant object of discovery. As for our testifying experts, the schedule expressly provides for an August 15 deadline for expert disclosures, and it is unclear why you would be entitled to one-sided disclosures ahead of this deadline. The authority that you cite below regarding the fact that a privilege log is required to substantiate a claim of privilege is beside the point; Twitter has no basis to subpoena experts ahead of these deadlines. We have repeatedly asked for this authority, since Twitter's request to preemptively seek discovery in advance of the expert deadline is highly unusual. We are growing concerned that Twitter either has no basis for its request to seek such discovery or is simply hiding that basis in an attempt to sandbag Defendants, which is highly inconsistent with what is required in Delaware. Absent such authority, our position remains the same: we will not provide this information because we have no obligation to do so.

We look forward to discussing these issues on our call.

Regards,
Silpa

Silpa Maruri
Partner
Quinn Emanuel Urquhart & Sullivan, LLP

51 Madison Avenue, 22nd Floor
New York, NY 10010
212-849-7211 Direct
212-849-7000 Main Office Number
212-849-7100 FAX
silpamaruri@quinnemanuel.com
www.quinnemanuel.com

NOTICE: The information contained in this e-mail message is intended only for the personal and confidential use of the recipient(s) named above. This message may be an attorney-client communication and/or work product and as such is privileged and confidential. If the reader of this message is not the intended recipient or agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error and that any review, dissemination, distribution, or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by e-mail, and delete the original message.

From: Wilson, Bradley R. <BRWilson@wlrk.com>

Sent: Saturday, July 30, 2022 5:52 PM

To: Silpa Maruri <silpamaruri@quinnemanuel.com>; Kathryn Bonacorsi <kathrynbacorsi@quinnemanuel.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBYavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slights, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

Thank you for your email. Please let us know your availability for a meet-and-confer call tomorrow at 3:00 p.m. EDT. In advance of that call, we write to address several points:

1. **Collection Efforts:** We will be prepared to discuss your questions concerning document collection on tomorrow's call. We will also require further explanation from defendants as to their own collection efforts. Twitter filed suit nearly three weeks ago, yet your email acknowledges that defendants have not completed their collection of documents from the three email addresses that you have represented contain all emails within defendants' control that are potentially relevant to the litigation. Defendants' failure to timely collect these documents is impeding efforts to negotiate an email search protocol, as evidenced by defendants having taken more than 50 hours to produce even a partial hit report. This is not reasonable or consistent with the demands of expedited litigation: You have offered only two custodians, and we expect defendants to commit the resources necessary to promptly complete the collection of those individuals' email accounts. Please confirm that defendants are conducting a full collection of all emails from their custodians' three email accounts and let us know when you expect those collections to be completed.

When we speak, we will also plan to discuss each side's plans with respect to the review of non-email document sources.

2. **Email Custodians:** With regard to Twitter's custodians, based on our discussion on Thursday's meet-and-confer, our review of the pleadings, and the information defendants have provided regarding their areas of focus, we have supplemented our list of proposed email custodians. We have provided below a chart identifying those proposed custodians and describing their respective roles at the company and connection to the issues to be tried.

In addition, per defendants' request, Twitter will undertake to search Jack Dorsey's @Twitter.com emails over the date range that we ultimately negotiate for the email review. As we have

explained, it is not at all clear that Twitter has possession, custody, or control of Mr. Dorsey's other sources of potentially relevant documents, but we can discuss that issue further tomorrow.

Finally, subject to our mounting concerns about the overall review burden for Twitter's email review alone, Twitter is willing to discuss undertaking a targeted search of the @Twitter.com emails that were assigned to the Concentrix QA and agents who worked on the mDAU sampling process for Q4 2021. We can explore this possibility more on the meet-and-confer.

3. Third Party Discovery: Because defendants have taken the position that they control only two custodians, Twitter is in the process of serving a number of document subpoenas on individuals and entities that assisted Mr. Musk in connection with the transaction.

In our prior communications, you have assured us that defendants will facilitate prompt cooperation with subpoenas issued to certain of these individuals, including Antonio Gracias. However, we are advised that your partner, Mr. Spiro, did not respond to a request from Twitter's counsel at Kobre & Kim to confirm your firm's agreement to accept service via email of the subpoena to Mr. Gracias. We are also advised that Mr. Spiro did not respond to Kobre & Kim's request to meet and confer on Monday, August 1 regarding that subpoena. Please confirm by 12:00 p.m. EDT tomorrow (July 31) that your firm will not be objecting to Kobre & Kim having served the Gracias subpoena on Mr. Spiro by e-mail, and please also advise as to your firm's availability for the requested meet-and-confer regarding that subpoena.

4. Data Scientists: We have repeatedly requested that defendants identify the data scientists (and/or data science firms) who were retained by or on behalf of Mr. Musk more than a month ago to analyze data that Mr. Musk received from Twitter. As we have previously informed you, Twitter plans to subpoena those individuals/entities. But defendants have prevented Twitter from doing so by refusing even to identify the data scientists on grounds of attorney-client privilege and work-product protection.

We do not agree with these privilege and work-product assertions, but even if they could be sustained, that would not permit defendants to conceal the names of the data scientists. Not surprisingly, Delaware law requires that any assertion of privilege be supported by the submission of a suitable log that identifies, among other details, "the parties to the communication." *Mechel Bluestone, Inc. v. James C. Just. Companies, Inc.*, No. CV 9218-VCL, 2014 WL 7011195, at *4 (Del. Ch. Dec. 12, 2014). While the parties here evidently have a dispute as to whether the work performed by Mr. Musk's data scientists was privileged, Twitter is entitled to ripen that dispute by subpoenaing the data scientists. Please identify them in advance of our call tomorrow, or supply authority that you claim supports your refusal to do so.

*** Proposed Twitter Email Custodians ***

#	Name and Title	Description
1	Parag Agrawal <i>Director; Chief Executive Officer</i>	Mr. Agrawal is a member of the Twitter Board and has served as Twitter's Chief Executive Officer since November 2021. Mr. Agrawal was directly involved in all aspects of the transaction with Mr. Musk, including through direct communications with Mr. Musk both before and after the signing of the merger agreement.

2	Mimi Alemayehou <i>Director</i>	Ms. Alemayehou is an independent member of the Twitter Board and a member of the Audit Committee.
3	Emmy Anargyros <i>Technical Program Manager, HCOMP</i>	Ms. Anargyros manages the process by which vendor-contracted agents review a sample of Twitter's mDAU to estimate the prevalence of false and spam accounts within mDAU. In this role, Ms. Anargyros herself reviews a subset of the accounts in the sample after prior review by contract agents and a Quality Analyst. Ms. Anargyros had substantial involvement in developing the training and guidance materials used by these agents in their review and participated in Twitter's response to Mr. Musk's post-signing information requests.
4	Krista Bessinger <i>Vice President, Investor Relations</i>	Ms. Bessinger leads Twitter's investor relations function. In this role, Ms. Bessinger regularly interacts with Twitter's investor base, including on matters disclosed in the company's securities filings and with respect to the transaction with Mr. Musk.
5	Stacey Conti <i>Corporate Development, M&A Integration</i>	Ms. Conti is a member of Twitter's corporate development team. Ms. Conti played a project management role in Twitter's responses to Mr. Musk's post-signing information requests, including by coordinating Twitter's efforts to gather responsive information, participating in informational calls and meetings with Mr. Musk's representatives, and directly communicating with those representatives.
6	Todd Doughty <i>Senior Data Science Manager</i>	Mr. Doughty is a data scientist and leads the team responsible for calculating Twitter's reported mDAU. Mr. Doughty was personally involved in Twitter's responses to Mr. Musk's post-signing information requests, including by preparing custom data pulls requested by Mr. Musk.
7	Egon Durban <i>Director</i>	Mr. Durban is an independent member of the Twitter Board and a member of the Nominating & Governance Committee. Mr. Durban directly communicated with Mr. Musk prior to the signing of the merger agreement.
8	Sean Edgett <i>General Counsel</i>	Mr. Edgett has served as Twitter's General Counsel since February 2018. Mr. Edgett managed the legal aspects of the transaction with Mr. Musk and of Twitter's responses to Mr. Musk's post-signing information requests.
9	Julianna Hayes <i>Vice President, Corporate Finance</i>	Ms. Hayes leads Twitter's corporate finance function. Ms. Hayes was directly involved in Twitter's responses to Mr. Musk's post-signing information requests, including by reviewing information to be provided to Mr. Musk and participating in informational calls and meetings with Mr. Musk's representatives.

10	Robert Kaiden <i>Chief Accounting Officer</i>	Mr. Kaiden leads Twitter's accounting function. In this role, Mr. Kaiden is responsible for preparing the company's financial statements. Mr. Kaiden was also directly involved in Twitter's responses to Mr. Musk's post-signing information requests, including by participating in informational calls and meetings with Mr. Musk's representatives. During one such informational call, Mr. Kaiden provided Mr. Musk's representatives a detailed explanation of Twitter's review of a sample of mDAU to estimate the prevalence of false and spam accounts within mDAU.
11	Omid Kordestani <i>Director</i>	Mr. Kordestani is a member of the Twitter Board and the Chair of the Risk Committee.
12	Martha Lane Fox <i>Director</i>	Ms. Lane Fox is an independent member of the Twitter Board, the Chair of the Nominating & Governance and Compensation Committees, and a member of the Transactions Committee. Ms. Lane Fox directly communicated with Mr. Musk before the signing of the merger agreement.
13	Fei-Fei Li <i>Director</i>	Dr. Li is an independent member of the Twitter Board and a member of the Compensation and Risk Committees.
14	Patrick Pichette <i>Director</i>	Mr. Pichette is an independent member of the Twitter Board, the Chair of the Audit Committee and a member of the Risk and Transactions Committees.
15	David Rosenblatt <i>Director</i>	Mr. Rosenblatt is an independent member of the Twitter Board and a member of the Nominating & Governance and Compensation Committees.
16	Yoel Roth <i>Senior Director, Trust and Safety</i>	Mr. Roth leads Twitter's Safety and Integrity function. In this role, Mr. Roth oversees Twitter's efforts to define and combat impermissible conduct on the Twitter platform, such as the creation and operation of false and spam accounts. Mr. Roth was also directly involved in Twitter's responses to Mr. Musk's post-signing information requests.
17	Ned Segal <i>Chief Financial Officer</i>	Mr. Segal has served as Twitter's Chief Financial Officer since August 2017. In this role, Mr. Segal leads Twitter's finance, corporate development, global content, and developer and product partnerships. Mr. Segal was directly involved in all aspects of the transaction with Mr. Musk, including through direct communications with Mr. Musk and his representatives after the signing of the merger agreement and supervision of Twitter's responses to Mr. Musk's post-signing information requests.

18	Bret Taylor <i>Director (Chair)</i>	Mr. Taylor is Twitter's Independent Board Chair and the Chair of the Transactions Committee. Mr. Taylor directly communicated with Mr. Musk both before and after the signing of the merger agreement.
19	[REDACTED]	[REDACTED] participated in Twitter's responses to Mr. Musk's post-signing information requests, including by coordinating Twitter's efforts to gather requested information, participating in informational calls and meetings with Mr. Musk's representatives, and directly communicating with those representatives.

Regards,
Brad

From: Silpa Maruri <silpamaruri@quinnemanuel.com>
Sent: Friday, July 29, 2022 8:55 PM
To: Wilson, Bradley R. <BRWilson@wlrk.com>; Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>
Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBYavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slights, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>
Subject: RE: Twitter v. Musk

*** EXTERNAL EMAIL ***

Brad:

We write to clarify a few points below.

1. **Collection Efforts:** Based on our custodial interviews, Mr. Birchall uses an Excession email address and Mr. Musk uses his Tesla and SpaceX email address. Accordingly, we are searching these email accounts. We are still in the process of collecting documents that hit on search terms in the requested date range, and we reserve all rights to assert relevance and burden objections. We have no reason to believe that other entities that are not involved in this dispute nor implicated by Twitter's claims, such as the Boring Company or Neuralink, will contain relevant information. To assess whether a subpoena is necessary, we need to better understand what relevant information you think may be contained at these entities.

On this point, please be prepared on our next meet and confer to discuss with specificity Plaintiff's own collection efforts. Specifically, we would like to discuss Twitter's collection efforts for the outside directors Twitter proposed as custodians, including what e-mail addresses contain relevant information and whether

there have been any collection issues or data loss in connection with the outside directors. Please also be prepared to confirm whether Twitter has (or had during the relevant period) possession, custody, or control over relevant documents for Jack Dorsey, who Defendants have requested be added as a custodian. Next, we expect Twitter will reciprocate as to the collection and production of relevant documents other than email, including but not limited to texts and other electronic messaging, Twitter DMs, hard copy files, local files, and files saved on personal computers, to the extent they exist. Please be prepared to discuss Twitter's collection efforts, including how it determined the location of relevant documents, and review process for non-email documents. Finally, you advised our team on yesterday's call that certain "outside agents" working under Emmy Anargyros to perform bot-related testing may have Twitter email addresses. Please confirm whether that is the case. If so, we request those individuals be added as custodians, as they will plainly contain relevant information and are in Twitter's possession, custody, or control.

With respect to data scientists, we have now explained the basis of our objection several times. Twitter, on the other hand, has failed to cite *any* authority requiring the disclosure of the identities of non-testifying consultants retained by counsel to advise. During our call yesterday, we specifically requested you provide such authority. You have yet to do so, and we ask that you do so to substantiate your claim once again. The basis for your positions should not be treated as a game of hide the ball. Your failure to provide such authority is unsurprising because it is evident that the reason you want the identities of such consultants is to subpoena them and pursue discovery of the work they performed at the request and on behalf of the attorneys who retained them, which is all privileged. Thus, your request for the names does not pertain to any relevant non-privileged information.

2. Search Terms: Attached please find our initial hit report. As our collection is ongoing, this does not reflect final figures, which we expect to be much larger. We are providing this report in the interest of pursuing good faith discussions, while reserving our right to object to your proposed search terms, including on both relevance and burden grounds. We look forward to discussing these issues on our next meet and confer.

While we certainly will need to discuss search terms further, your "surprise" about our questions regarding terms that clearly seek privileged information – *e.g.* legal terms like "best efforts" and "MAC" – seems feigned at best. On the terms we proposed that you questioned – *e.g.* Trump, Bangalore, New Delhi – we're happy to expand on their relevance. Trump is relevant for the reasons we explained, namely that the name is often associated with spam, false accounts, and bots. As for the terms Bangalore and New Delhi, as my colleagues explained on our call, we recently learned Twitter filed a lawsuit against the government in Bangalore challenging orders blocking certain user accounts. That Twitter filed suit in response to blocking orders already issued strongly suggests an investigation(s) had been underway during the negotiation period and before the time the Merger Agreement was executed. Twitter's failure to disclose such investigations constitutes a violation of Section 4.11 of the Merger Agreement. In addition, as you know, one of the main issues in this dispute is Twitter's treatment of user accounts and moderation of same.

3. Custodians: While we are certainly seeking the types of custodians you list below, as explained during our call yesterday, that list is by no means exhaustive. We're also seeking individuals involved in: (a) modeling the projected performance of the business; (b) management of Twitter's user data; (c) communicating with advertisers regarding false and spam accounts on the platform; (d) government investigations into the company (e) determining the key performance indicators and metrics to track; (f) tracking and projecting these referenced key performance indicators and metrics; and (g) creating financial and operational projections. Please provide information regarding the individuals involved in these functions, as well as the information you committed to provide below, as soon as possible. As we noted yesterday, agreeing on custodians is a threshold issue that we hope to resolve quickly.

Regards,
Silpa

Silpa Maruri
Partner

51 Madison Avenue, 22nd Floor
New York, NY 10010
212-849-7211 Direct
212-849-7000 Main Office Number
212-849-7100 FAX
silpamaruri@quinnemanuel.com
www.quinnemanuel.com

NOTICE: The information contained in this e-mail message is intended only for the personal and confidential use of the recipient(s) named above. This message may be an attorney-client communication and/or work product and as such is privileged and confidential. If the reader of this message is not the intended recipient or agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error and that any review, dissemination, distribution, or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by e-mail, and delete the original message.

From: Wilson, Bradley R. <BRWilson@wlrk.com>

Sent: Thursday, July 28, 2022 10:10 PM

To: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBYavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slights, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

Thank you for this evening's meet-and-confer call. We write to summarize the parties' discussions on the call regarding collection, custodians, and search terms:

1. Facilitation of third-party cooperation: You explained that while you would not interfere with Ms. Salen's and Mr. O'Malley's compliance with subpoenas, you and your team are not familiar with them and therefore not able to facilitate their cooperation (as you have committed to do with respect to Messrs. Gracias and Swan).
2. Collection from Messrs. Musk and Birchall: We asked how you determined that Mr. Musk has only two email accounts with responsive information and that Mr. Birchall has only one. You explained that you made these determinations based on custodial interviews with Mr. Musk and Mr. Birchall. You also explained that you plan to process their cell phones. You said you would confirm whether Mr. Musk used more than one phone over the period plaintiff views as relevant (January 1 through July 8, 2022), although you were not aware of his having changed phones during that period. You also explained that Mr. Musk and Mr. Birchall are searching their files for relevant hard-copy information and that you would be collecting Twitter direct messages. On our next meet-and-confer call, we will want to better understand the process defendants are following

to identify and collect potentially responsive documents other than emails, including hard-copy information, Twitter DMs, and communications sent on other instant messaging platforms.

You further explained, in response to our questions, that you have no reason to believe that either of Messrs. Musk or Birchall had auto-delete enabled on their phones, during the period plaintiff views as relevant, and that you were not presently aware of any data loss issues more broadly. Finally, you represented that we do not need to subpoena Mr. Birchall because you are collecting all relevant documents from his files.

3. Control and Collection from other persons and entities: You said you would get back to us on whether there are documents located at Excession that are not within defendants' possession, custody, or control. You likewise represented that, while Tesla and SpaceX are not under defendants' control, you are collecting Mr. Musk's Tesla and SpaceX email accounts. Please confirm that you are collecting these email accounts in their entirety over the relevant period and specify the period that your collection covers. You also said you would get back to us regarding whether The Boring Company and Neuralink are within defendants' possession, custody, or control. We look forward to hearing from you.

With respect to the data scientists/data science firms that have been accessing the data Twitter provided to your clients in response to their information requests under the Merger Agreement, you explained that you are asserting attorney-client privilege and work-product privilege over their work in connection with the transaction. Moreover, we understood you to say that you will not provide the names of these individuals/firms to us on the basis of those assertions. Given the expedited nature of this action and our desire to promptly subpoena these individuals/firms, we reiterate our request that you identify them now (whether informally via email or in an interrogatory response). While we reserve all rights with respect to your claims of privilege, we do not understand the basis on which any applicable privilege would protect the names of these firms/individuals from discovery. If you will not reconsider your refusal to provide this basic information, we ask that you promptly explain your basis for such refusal.

4. Search Terms: While we addressed your questions regarding the relevance of certain of our search terms, you asked—and we agreed—that we table in-depth discussions with respect to each side's counterproposals on search terms until you have had a chance to further digest the hit report we sent you earlier today and generate your own hit report with respect to Twitter's counterproposal to your clients. You also explained that you intend to provide us with a hit report for Twitter's counterproposal later this evening. We look forward to receiving it and discussing search terms further.

To the extent we began to discuss particular search terms, we were surprised that you inquired about the relevance of several of Twitter's proposed terms that we would have thought non-controversial (e.g. Bret, "best efforts," MAE). We were also unpersuaded by your stated reasons for including certain of the terms in defendants' counterproposal (e.g. Trump, Bangalore, "New Delhi"). We further note that during the meet-and-confer, you gave no indication as to whether defendants are preparing to file counterclaims.

5. Custodians: You explained that you continue to require more information regarding Twitter's operations and organizational structure in order to finalize the custodian list. We explained the role of several of the custodians we had initially proposed and how they relate to the issues to be tried in the case. We also sought to obtain a better understanding from you as to the specific kinds of information your clients believe they are entitled to so that our further discussions about the

appropriate custodians can be more productive. You explained that defendants are seeking to identify custodians involved in (a) spam detection and prevention; (b) the mDAU audit process (i.e. the process that underlies Twitter's SEC disclosures regarding its estimate of the number of spam/false accounts as a percentage of mDAU); (c) the relationship between mDAU and advertising revenues; and (d) the Investor Relations function to the extent its work pertains to the aforementioned SEC disclosures. You also explained that to the extent you were interested in identifying custodians from Twitter's Security, Engineering, Products/Revenue, Investor Relations, Finance/Accounting, and Legal departments (which are the general categories/departments referenced in the introductory paragraph of your counterproposal yesterday), it was in connection with these more specific enumerated topics.

As a next step, we committed to make a further counterproposal on custodians that takes account of the additional information you provided. We also agreed to either provide you with a supplemental "org chart" (similar to the document we created with Twitter's assistance and produced this morning), or come to our next meet-and-confer prepared to explain our proposed custodians' roles and how they tie to the topics you have said you are focused on. You also explained that there are several custodians from your counterproposal whom defendants are particularly interested in—namely, Jack Dorsey; Kayvon Beykpour; [REDACTED]; [REDACTED]; and [REDACTED]. We reserved all rights as to these individuals and the others you have asked Twitter to add as custodians.

We will endeavor to provide a counterproposal regarding custodians as promptly as possible. We explained that we are actively reviewing documents from certain non-controversial custodians while we continue to negotiate the search parameters, for which you expressed appreciation.

Regards,
Brad

From: Wilson, Bradley R.

Sent: Thursday, July 28, 2022 3:32 PM

To: 'Kathryn Bonacorsi' <kathrynbonacorsi@quinnemanuel.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NB Yavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slights, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

Counsel,

Defendants' refusal to provide a hit report is unreasonable. *See, e.g., International, Inc. v. Wellstat Therapeutics Corp.*, No. 12562-VCL (Del. Ch. Oct. 4, 2016) (TRANSCRIPT) at 42 ("If somebody asks you for a hit report, you give it to them. You give it to them because discovery is supposed to be a cooperative

enterprise....”). To the extent you have substantive questions about any of Twitter’s proposed search terms, we will be prepared to address them on the meet-and-confer, but that provides no basis for you to withhold the customary information we’ve requested.

If there is a reason why defendants cannot provide a “reliable hit report” at this time, please tell us what it is. In particular, please confirm that defendants have collected the full email accounts for the three email addresses you have identified to date (two for Musk and one for Birchall), and, if so, please specify the date range(s) for those collections. We ask that you provide this information prior to our meet-and-confer.

Notwithstanding your refusal to reciprocate, we attach a hit report pertaining to defendants’ counterproposal with respect to Twitter’s email review. This report covers only some of the 60 individuals defendants proposed as custodians—namely, the 8 management custodians included in our initial proposal, plus 6 others whose company emails we have been able to upload to our review platform to date. This report covers the January 1 through July 8, 2022 date range reflected in Twitter’s RFPs to defendants.

As you will see, even this partial search yielded more than 246,000 documents, representing more than 43% of the documents in the search universe. We find these results unsurprising given the breadth of defendants’ proposed terms (e.g. project*, valu*) and the many irrelevant subjects that they address (e.g. Trump, Bangalore).

Regards,
Brad

From: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>
Sent: Thursday, July 28, 2022 1:37 PM
To: Wilson, Bradley R. <BRWilson@wlrk.com>
Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBVavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slights, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>
Subject: RE: Twitter v. Musk

*** EXTERNAL EMAIL ***

Brad:

We are available at 4pm EST to discuss the organizational information that Twitter just produced and custodians more generally, which is a prerequisite to a reliable hit report. In particular, we have questions about the bare bones visuals you provided us. On our end, given where we stand in the collection process, generating a hit report on Twitter’s

proposed search terms does not make sense, particularly when we have substantive questions about many of your proposed search terms. We'll circulate a dial in for 4pm shortly.

Thanks,
Kate

From: Wilson, Bradley R. <BRWilson@wlrk.com>

Sent: Thursday, July 28, 2022 10:46 AM

To: Kathryn Bonacorsi <kathrynbacorsi@quinnemanuel.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SEddy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBVavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slights, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

We are producing shortly the chart that Twitter generated to reflect the organizational structure for Parag Agrawal, his direct reports, and their direct reports. We will be prepared to discuss this document, and the subject of appropriate custodians more generally, when we meet and confer.

As to the meet-and-confer, we are not available at 3:00 p.m. EDT, but we are available at 4:00 p.m. EDT. Please let us know if that time works for defendants. We intend to share in advance of our discussion a term-by-term hit report (including unique hit counts) relating to the search proposal that defendants provided yesterday. Please confirm that defendants will do the same.

Regards,
Brad

From: Kathryn Bonacorsi <kathrynbacorsi@quinnemanuel.com>

Sent: Thursday, July 28, 2022 7:04 AM

To: Wilson, Bradley R. <BRWilson@wlrk.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SEddy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBVavitz@wlrk.com>

Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slights, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

*** EXTERNAL EMAIL ***

Brad:

Are you available to discuss search terms at 3pm EST today? And when can we expect to receive the charts you're working on with Twitter?

Thanks,
Kate

From: Wilson, Bradley R. <BRWilson@wlrk.com>

Sent: Wednesday, July 27, 2022 5:01 PM

To: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBVavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slights, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

We are attaching Twitter's initial counterproposal for search terms to be run against the emails of Messrs. Musk and Birchall. Twitter reserves the right to revise/supplement its proposal based on our ongoing meet-and-confer discussions, and as further discovery warrants. We would be happy to meet and confer about this counterproposal tomorrow after defendants have provided a suitable hit report pertaining to it.

We will also review defendants' counterproposal with respect to Twitter's email review and revert with our availability for a meet-and-confer tomorrow. In the meantime, we expect to generate a hit report pertaining to defendants' counterproposal and will share that report as soon as we can.

Finally, following our discussion on last night's call, we have undertaken further inquiry into the existence of "org charts" documenting Twitter's internal employment structure. While it remains our understanding that Twitter does not maintain such documents in the ordinary course, we have determined that it is possible to generate documents that reflect similar information using the company's

HR software. We are working with Twitter to prepare charts of this kind for the pertinent segments of the company and will provide those charts as soon as we can.

Regards,
Brad

From: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>

Sent: Wednesday, July 27, 2022 11:06 AM

To: Wilson, Bradley R. <BRWilson@wlrk.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBYavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slights, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

*** EXTERNAL EMAIL ***

Brad:

We write to clarify and respond to some of the substantive points you raise below:

1. Defendants' Proposed Custodian: You asked why Bob Swan, Antonio Gracias, Kristina Salen, and Patrick O'Malley were not included as custodians. We informed you that none of their documents were under the possession, custody, or control of Defendants. We stated that you of course could subpoena these individuals. We confirmed that we would not do anything to prevent or interfere with their timely responses to third party subpoenas. With respect to Mr. Swan and Mr. Gracias, we will facilitate prompt cooperation with any reasonably tailored subpoenaed. Regarding the data scientists, we do not believe that your request for this information is appropriate. Nor do we have any obligation to provide this information. To the contrary, as these individuals are non-testifying consultants of Defendants, any work or analyses they have performed for Defendants at the requests of counsel is privileged. As noted during the call, we will be identifying relevant individuals in response to Twitter's interrogatories, which we expect to serve in the next few days.
2. Defendants Date Range/Search Terms: As noted during our call, the hit count based on our current collection for our current proposal is 2,474. This figure is based on the small set of documents we already have collected and uploaded to the database that fall within our proposed date range. The hit count will therefore increase as we continue to collect and upload. As noted during the call, we are of course willing to provide updated hit counts throughout this process.
3. Emails: We confirm that the three email addresses you listed below are the only email addresses that contain responsive information for Mr. Birchall and Mr. Musk.

4. Other document sources: As noted during the call, we are still collecting responsive documents from Mr. Birchall and Mr. Musk. At this time, it is our understanding that there no responsive documents saved on personal laptops or in cloud-based platforms or in hardcopy form; however, this may be subject to change as our collection is ongoing.
5. Twitter's Proposed Custodians: We explained that given the fact Twitter is a massive organization, it is neither efficient nor fair for Defendants to guess who within the organization will have relevant documents, particularly on such a highly expedited timeline to trial. The difficulties of proceeding in this manner are compounded by the fact that (1) publicly available information on the roles and hierarchy within Twitter is ambiguous at best and (2) the high turnover rate of employees within Twitter makes it nearly impossible to identify who is (or was) in relevant roles. That it is why we requested org charts, which you did not dispute are relevant and would have to be produced if they existed. We would appreciate your confirmation on this point by 5pm EST today. We also requested historical org charts and any other documents – perhaps within the HR Department – that reflect reporting lines within Twitter and company structure and hierarchy. While we will provide a counterproposal of custodians and groups we believe have information relevant to this dispute, without more information about what groups and departments *even exist* within Twitter, our counterproposal will not be complete. Twitter's lack of transparency is highly prejudicial where the parties have such a short window of time to complete discovery (by Twitter's design). Given our willingness to work with third parties Mr. Swan and Mr. Gracias to ensure prompt compliance with subpoenas, we expect Twitter to promptly produce the straightforward custodial information requested herein, as cooperation by both parties is necessary under the circumstances.
6. We have no objection to the initial 12 custodians Twitter has proposed, so long as you understanding we are reserving our rights to request more custodians.

We will follow up at 5pm EST today with our counterproposal. Please let us know whether you are available to discuss tomorrow at 9am EST.

Thanks,
Kate

From: Wilson, Bradley R. <BRWilson@wlrk.com>

Sent: Tuesday, July 26, 2022 11:01 PM

To: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBYavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slights, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

We write to summarize the parties' discussions on this evening's meet-and-confer call:

Defendants' Initial Proposed Search Protocol

1. **Custodians**: You represented that the documents of Bob Swan, Antonio Gracias, Kristina Salen, and Patrick O'Malley are not within defendants' possession, custody, or control, and explained that you did not include these advisors as custodians in defendants' proposal for that reason. In light of your taking that position, we asked that defendants commit to assist Twitter in seeking the timely production of documents from these individuals in response to third-party subpoenas. You said you would get back to us, but indicated that you are generally amenable to doing so.

You also advised that the documents of the data scientists that defendants engaged to assist them in evaluating the data that Twitter provided pursuant to defendants' information requests are likewise not within defendants' possession, custody, or control. As such, we asked that you provide the names of those data scientists promptly so that we can prepare third-party subpoenas and serve them as soon as possible, consistent with the expedited schedule. Please let us know whether defendants will provide this information by tomorrow.

2. **Date Range / Search Terms**: You advised that your proposed date range for your initial proposal was April 2022 through July 8, 2022 because you believe that is the relevant time period. You also explained that you omitted search terms keyed to the subject matter of certain issues addressed in Twitter's complaint and pending document requests (e.g. with respect to Twitter's claim that defendants breached the merger agreement by failing to devote their reasonable best efforts to consummating the merger) because, in your view, these are not relevant topics. We disagree on both points, as we discussed, and will mark up your proposal to address our concerns. We can discuss these issues in more detail on our next meet-and-confer call.

To facilitate our mark-up of your proposal, we ask that you provide as soon as possible—either tonight or early tomorrow morning—with the hit count associated with the initial proposal you sent earlier today, consistent with our sharing that figure with you on the call in connection with Twitter's initial proposal (in Twitter's case, more than 65,000 documents, including families, for the proposed custodians with Twitter email addresses). Please confirm that you will provide this information.

3. **Emails**: You explained that, although you are still in the process of collecting documents and working with your clients to understand their files and the sources of potentially responsive documents, you intend to search at a minimum Mr. Musk's Tesla email address as well as his SpaceX email address, along with Mr. Birchall's Excession email address. You said you would get back to us regarding whether there are any other email accounts that could contain relevant information.
4. **Text Messages**: You stated that you intend to collect text messages. We agreed to revisit a protocol for searching and reviewing text messages on a subsequent call.
5. **Other document sources**: You confirmed that your proposed search terms were intended to cover email searches only. You committed to get back to us on whether relevant documents may exist on your custodians' personal computers and/or in cloud-based platforms. You explained that you have no specific objection to collecting and producing

responsive Twitter direct messages, but advised that you had not specifically considered the matter as of yet. We look forward to discussing this issue on our next call.

In addition to these sources, please confirm that you also intend to collect and review potentially responsive hard-copy documents from your custodians.

Plaintiff's Initial Proposed Search Protocol

1. **Custodians / Org Charts**: You requested that we send you org charts in order to assist you in identifying potential custodians. As we explained, we do not believe that Twitter creates org charts in the ordinary course of its business, but we agreed to confirm that with our client. As an alternative approach, and in the interest of advancing our discussions regarding Twitter's search protocol, we requested that you identify specific groups/functions within Twitter from which you are seeking documents, and you said that you would be willing to provide that information. Please do so promptly. Twitter of course reserves the right to decline to add particular custodians that you might request on grounds of relevance, proportionality, overall burden, etc.

In addition, please let us know if you have any objection to the inclusion of the 12 custodians we have already proposed, so that we may proceed with reviewing their documents in an orderly and efficient manner.

2. **Hit reports**: Twitter and defendants agreed that each side is prepared to exchange customary hit reports as we continue to negotiate search terms and protocols.
3. **Exchange of counterproposals**: You proposed that the parties exchange counterproposals at 5:00 p.m. EDT tomorrow. We agree to do so.

Regards,
Brad

From: Wilson, Bradley R.

Sent: Tuesday, July 26, 2022 1:14 PM

To: 'Kathryn Bonacorsi' <kathrynbbonacorsi@quinnemanuel.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBVavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slights, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

We are available at 6:30 and will send a dial-in.

From: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>
Sent: Tuesday, July 26, 2022 12:44 PM
To: Wilson, Bradley R. <BRWilson@wlrk.com>
Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBVavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slights, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>
Subject: RE: Twitter v. Musk

*** EXTERNAL EMAIL ***

Brad:

We're no longer available at that time. Are you available at 6:30pm EST?

Thanks,
Kate

From: Wilson, Bradley R. <BRWilson@wlrk.com>
Sent: Tuesday, July 26, 2022 11:59 AM
To: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>
Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBVavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slights, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>
Subject: RE: Twitter v. Musk

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

We attach Twitter's initial proposed search protocol.

We are available to meet and confer at 4:30 p.m. EDT. If that time still works for defendants, we will send a dial-in.

Regards,
Brad

From: Wilson, Bradley R.

Sent: Tuesday, July 26, 2022 10:58 AM

To: 'Kathryn Bonacorsi' <kathrynbonacorsi@quinnemanuel.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SEddy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBVavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slights, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; 'Sorrels, Brad' <bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

Counsel,

We likewise plan to exchange initial proposed search protocols at 12 p.m. EDT.

We are checking calendars on our side and will revert soon with our availability for the meet-and-confer you have requested.

Regards,
Brad

From: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>

Sent: Monday, July 25, 2022 10:02 PM

To: Wilson, Bradley R. <BRWilson@wlrk.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SEddy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>

Subject: RE: Twitter v. Musk

*** EXTERNAL EMAIL ***

Brad:

I am confirming that we will exchange initial search terms and custodians tomorrow at noon EST. Please let us know when you are available for a meet and confer to discuss after 4pm ET.

Thanks,
Kate

From: Wilson, Bradley R. <BRWilson@wlrk.com>

Sent: Sunday, July 24, 2022 11:36 PM

To: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKeddy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>

Subject: RE: Twitter v. Musk

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

We write in response to your email from earlier today.

To begin, you have mischaracterized Twitter's position respecting the dates for trial. We have not asked defendants to commit to completing trial in a week (although we believe that a five-day trial will be more than sufficient in this case). Rather, we have simply said that if defendants decline to make that commitment, we will not agree to support an October 17 trial start, as we had offered to do as a gesture of goodwill if the Court is available to hold trial either the week of October 10 or October 17.

With regard to the issues addressed in the second and third paragraphs of your message (which address, respectively, the date and time for an exchange of initial proposed search protocols and the deadline for defendants to file their Answer), Twitter stands by the positions it has previously conveyed for the reasons already articulated.

In respect of the pre-trial schedule, we are attaching a slightly revised proposal that includes bracketed interim deadlines that would apply if the trial start date is October 10. (This version also clarifies that August 28 is the substantial completion deadline for all document productions, which had been our intention.) Once the Court confirms the trial dates, we will be prepared to meet and confer promptly in an effort to finalize the interim dates. We have not included defendants' proposed August 1 deadline for the production of "material large data sets." We do not believe defendants' attempt to impose a one-way discovery deadline for a particular subset of discovery sought from plaintiff—before Twitter has even served its responses and objections—is reasonable or consistent with the discovery rules and customary practice in expedited cases. Nor do we think it appropriate for defendants to effectively seek to use a scheduling order as a substitute for an order requiring plaintiff to provide particular discovery. We intend to serve responses and objections to your discovery, promptly meet and confer about any disputed discovery requests, and produce agreed discovery on a rolling and expedited basis and in accordance with reciprocal deadlines for responding to discovery requests.

Finally, the conditions you attached to your counter-proposal regarding an exchange of initial document productions are unreasonable. Here again, defendants are attempting to impose an artificial deadline that would obligate Twitter—and Twitter alone—to provide substantial document discovery before defendants have answered the Complaint (or disclosed whether they intend to assert counterclaims) and before the parties have served responses and objections and conducted the meet-and-confer process.

Regards,
Brad

From: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>

Sent: Sunday, July 24, 2022 3:47 PM

To: Wilson, Bradley R. <BRWilson@wlrk.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKeddy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>

Subject: RE: Twitter v. Musk

*** EXTERNAL EMAIL ***

Brad:

In response to the points you raise below:

First, your continued insistence that Defendants commit to complete trial in a week – *three months in advance* – is simply not appropriate. Of course, Defendants aim to present their case at trial in the most efficient way possible. However, given the magnitude of this case, both in terms of dollars at stake and importance to Defendants, we cannot agree to limit our presentation in any way. We trust you can understand this.

Second, your refusal to “accelerate” the exchange of proposed search protocols by a mere 19 hours when your client is the one who sought expedition of this case in the first place makes no sense. You fail to provide any reason why you cannot conduct the exchange earlier. Thus this appears to be yet another attempt by Twitter to stall this case. We ask you to reconsider and let us know your final position by 8am EST tomorrow.

Third, we have already agreed to move up the deadline for filing the answer *twice*. We cannot commit to filing it any earlier than that. It must be noted that your attempt to use our filing of the answer as a justification for Twitter’s foot dragging on discovery is transparent pretext, and should it continue we are prepared to raise it with the Court .

Fourth, regarding the schedule, we have given you “specific comments” on your proposed schedule below, most importantly that your proposal of August 28 as the deadline for substantial completion of document production is untenable and unreasonable. You have failed to provide any reason whatsoever why you cannot meet our proposed deadline of August 1 to substantially complete production of material large data sets. This is appears to be yet another attempt to prevent Defendants from building their case on the highly expedited timeline that Twitter requested. Please let us know by 8am EST tomorrow if you will agree to our proposed deadline.

Finally, your suggestion that we are doing anything outside of the norm in this litigation is not well taken. We are merely trying to move this case forward on the highly expedited timeline that Twitter requested. That is why we have requested that Twitter immediately produce the non-objectionable categories of documents we listed below, including documents/data responsive to RFP 1 in Defendants' second set of RFPs. During last week's hearing, Mr. Savitt represented to the Court that "Twitter will be in a position to make everything that's available, available." Instead of honoring that by agreeing to immediately produce relevant documents (or explain why you cannot do so), you try to turn the tables on us and demand we make a "reciprocal" production. Despite the fact that you just served document requests Friday night, we will undertake our best efforts to make an initial production by the end of this coming week on the condition that Twitter agrees to (1) produce everything it concedes is relevant immediately, (2) provide an explanation as to why the other categories we listed below are not relevant, and (3) our August 1 proposed deadline to substantially complete production of material large data sets. We request your final position on this by 8am EST tomorrow.

Thanks,
Kate

From: Wilson, Bradley R. <BRWilson@wlrk.com>

Sent: Saturday, July 23, 2022 8:00 PM

To: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>

Subject: RE: Twitter v. Musk

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

We write in response to your most recent email:

First, in light of Defendants' unwillingness to commit to complete the trial on or before October 21 in the event that trial commences on October 17, we do not agree to support an October 17 start date. We will await the Court's guidance regarding the dates for trial, in accordance with the instructions conveyed to the parties on this week's call to Chambers.

Second, Twitter remains willing to exchange initial proposed search protocols on Tuesday at 12:00 p.m. EDT, which is less than six days after Defendants served the document requests to which the initial search protocol will pertain. Your proposal to accelerate the time for this exchange by 19 hours is unreasonable.

Third, as we have repeatedly explained, Defendants' unreasonable delay in serving their responsive pleading is prejudicing Twitter's ability to assess the appropriate scope of discovery in this expedited case and prepare for the production of responsive documents. Your refusal to even say whether Defendants will be asserting counterclaims is substantially compounding this prejudice. We continue to

believe that Defendants should file their Answer immediately, and Twitter reserves all rights in that regard.

Fourth, and most fundamentally, we continue to object to Defendants' efforts to conduct one-way discovery in this case in a disorderly fashion that contravenes customary practice in this Court. The next step in an orderly discovery program is the entry of a case schedule, and we accordingly ask that you provide specific comments on the proposed schedule that we sent you yesterday afternoon (which, we wish to note, already resolves several of the issues you mentioned in your email last night). We can make ourselves available tomorrow to discuss your further proposed revisions if that would be useful.

Twitter, meanwhile, is focused on preparing to produce responsive and non-privileged material on an expedited basis. Twitter will serve formal responses and objections to your clients' pending document requests in accordance with the timeline agreed by the parties, and we will make ourselves available to meet and confer about those requests promptly thereafter. If there are disputes about the proper scope of discovery, Twitter is prepared to present those issues to the Court for resolution in accordance with an orderly but prompt schedule. This procedure has been successfully followed over and over again in expedited cases in this Court, and we believe the Court will expect the parties to follow it here.

Twitter is also prepared to agree to make an initial production of responsive documents—consisting of some of the documents you have identified below, from categories that Twitter agrees are responsive—by the end of the upcoming week. Twitter's willingness to do so is contingent upon Defendants providing a reciprocal commitment to make an initial production on the same timeline. Please let us know if Defendants will make that commitment.

Regards,
Brad

From: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>

Sent: Friday, July 22, 2022 9:27 PM

To: Wilson, Bradley R. <BRWilson@wlrk.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>

Subject: Re: Twitter v. Musk

*** EXTERNAL EMAIL ***

Brad:

Again, we write to respond only to the substantive points you make below:

First, we appreciate your willingness to start trial on October 17 subject to the Court's availability. However, we do not agree to any of the conditions you are trying to impose.

Second, given that time remains of the essence, we expect that you will provide your proposed search protocols on Monday, July 25, at 5:00 PM ET. We are prepared to do the same.

Third, while we largely stand on our position as articulated below regarding the Answer, we will agree to file the Answer on July 28.

Fourth, we disagree with numerous of your revisions to our proposed schedule, including your proposed deadline of August 28 for substantial completion of document production. As this date is just ten days before opening expert reports are due – in a case where experts are crucial – your proposal is an obvious attempt to squeeze us, and prevent our experts from engaging, for the benefit of the Court, in a meaningful and fair analysis of the data and documents you provide. Instead, we expect the production deadline to be August 1 for material large data sets in response to initial requests. In addition, we also expect the schedule to include deadlines for (1) the identification of rebuttal expert witnesses and general subject matter of expert testimony; (2) parties to identify any potential trial witnesses not previously deposed or scheduled for deposition and make such witnesses available for deposition; and (3) filing of motions in *limine* (if any).

Finally, your suggestion that discovery here will be "bilateral" is, to put it bluntly, absurd. Twitter – as the target company in this transaction – holds substantially all of the information that will be at issue in this litigation. It is patently unreasonable for Twitter, without any basis, to force Defendants to wait for Twitter to decide to produce documents central to this case, prejudicing Defendants' defense. This appears to be precisely what is happening here. To the extent you are suggesting that we are withholding reciprocal discovery from our clients, we simply note that you have not even served discovery requests. And furthermore, we are confused by your refusal to produce the categories of obviously non-objectionable and relevant material on a rolling basis. You even admit that some of the categories are relevant. While we disagree that any of the categories we listed below are irrelevant, you fail to identify which ones you refer to or why they are irrelevant. What's more, you already have stated that some of these categories have been ready to produce since *last week*. As we've reiterated numerous times, we are trying to work with you on the highly expedited schedule that *you requested*. You are now unjustifiably dragging your feet.

Please let us know by 5pm ET tomorrow whether you will agree to produce everything that you concede is relevant immediately, and provide an explanation as to why the other categories listed below are not relevant. We have now been debating the schedule for days, in the context of a case where less than ninety days are left until trial. Thus, in the absence of your agreement to (i) immediately produce all relevant documents; (ii) provide an explanation as to why the remainder are not relevant; (iii) your agreement to our document production deadline, we will seek relief.

Regards,
Kate

On Jul 22, 2022, at 4:24 PM, Wilson, Bradley R. <BRWilson@wlrk.com> wrote:

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

We continue to have concerns that Defendants are taking a one-sided view regarding the parties' obligations in expedited proceedings. For example, Defendants seek to defer the filing of their Answer (and potential Counterclaims) for another week, but demand that Twitter immediately negotiate search protocols and take various other actions. We think it is clear that Twitter cannot agree to a search protocol before it even knows what contentions/defenses Defendants raise in their Answer (and potential Counterclaims). Moreover, Twitter will want to address in its written discovery requests the contentions/defenses that Defendants raise in the Answer (and potential Counterclaims). That is why the proposed Scheduling Order that Twitter submitted to the Court last Tuesday expressly provided that the first event in the schedule would be Defendants' filing an Answer to the Complaint. Notwithstanding Defendants' delay in responding to the Complaint, Twitter remains committed to moving this case forward consistent with the Court's ruling. Below are brief responses to the specific points raised in your email.

First, with respect to the trial date, as noted on the call the other night and in my prior email, our understanding is the Court will get back to the parties regarding its availability for trial the weeks of October 10 and October 17. Further, our understanding is that both sides are available both of those weeks; to the extent we were to call the Court, rather than wait to hear back from Chambers, we should advise the Court that the parties are available both weeks that were provided and ask for any further information the Court can provide regarding its availability during those weeks. To the extent the Court has sufficient availability the week of October 17 such that the trial could be completed by the end of that week, we can reserve that week with the Court for trial. If the Court does not have sufficient availability that week, or offers the week of October 10 only, then we need to reserve the week of October 10 for trial. Finally, our willingness to agree to trial in the week of October 17 (as opposed to the week of October 10) is conditioned on your commitment to conclude the trial that week and to not seek additional trial days. Please let

us know if that is acceptable and if Defendants would like to organize a call to the Court on these matters.

Second, as noted above, Defendants' demand that Twitter negotiate search terms and custodians before Defendants respond to the Complaint makes no sense and is contrary to the normal process for litigation. Despite Defendants' delay in filing their responsive pleading in this expedited case, Twitter expects to be able to send an *initial* proposed search protocol to Defendants as part of a mutual exchange on Tuesday, July 26, at 12pm ET. For obvious reasons, however, the parties cannot finalize any search protocol until after Defendants file their Answer (and potential Counterclaims).

Third, we continue to believe that Defendants should file their Answer before the July 29 date you now propose, and Defendants also should disclose immediately if they intend to assert Counterclaims. As explained above, every day that Defendants delay in filing those pleadings further delays the parties' ability to move forward with discovery, including negotiating a search protocol.

Fourth, we have sent you the proposed final version of the Confidentiality Order. We will file it as soon as we have your sign-off.

Fifth, enclosed is Twitter's mark-up of the draft Scheduling Order that you provided last night. We are available to discuss, but believe it may be more productive to do so after the Court advises the parties of the specific trial dates.

With regard to the second to last paragraph of your email, once again Defendants purport to impose asymmetrical and arbitrary discovery demands on Plaintiff, while refusing to file a responsive pleading within a reasonable time in this case and not themselves offering to "immediately" produce "undoubtedly relevant [documents] that [defendants] know[] [they] must produce." Discovery is a cooperative endeavor, and while Defendants have made numerous demands on Plaintiff, they have not offered to reciprocate. Moreover, although Twitter agrees that some of the categories of documents you list are relevant, and to produce such documents in accordance with the schedule agreed upon by the parties or ordered by the Court, a number of the categories are not relevant to the issues in the case and are not the proper subjects of discovery.

We of course are available to meet and confer regarding any of these matters.

Regards,
Brad

From: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>

Sent: Thursday, July 21, 2022 11:29 PM

To: Wilson, Bradley R. <BRWilson@wlrk.com>; Emily Kapur <emilykapur@quinnemanuel.com>

Cc: Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP)

<andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher,

Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>;

Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>;

Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>;

Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon

LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP)

<ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKeddy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>
Subject: RE: Twitter v. Musk

*** EXTERNAL EMAIL ***

Brad:

We write in response to the substantive points you raise below:

First, as to trial, we appreciate your agreement to an October 17 trial date. Please let us know what time you are available tomorrow morning so we can call the Court to advise that both parties are available then.

Second, while we accept your proposal regarding the timing of Twitter's responses and objections to Defendants' pending document requests, we reject your proposal that we should wait until the answer is filed to discuss a "reasonable search protocol." There is simply no reason we cannot begin these discussions now, as we proposed yesterday, and it is in fact necessary to begin these discussions now given the compressed schedule (that Twitter requested). Indeed, there is no reason why custodians and search terms cannot be discussed now. Please provide your proposed "search protocol" by tomorrow at 5pm; in the absence of receiving your proposal, we will seek relief from the Court.

Third, Defendants are agreeable to an earlier deadline for filing their answer and are committed to filing by July 29, at which time you will know whether Defendants are asserting counterclaims.

Fourth, Defendants are in agreement regarding the Confidentiality Order and request that you file the order promptly tomorrow morning.

Fifth, attached please find our mark-up of Twitter's proposed schedule, as requested. We are available to meet and confer tomorrow to discuss this further.

In addition to the above, it is noteworthy that there are certain documents that are undoubtedly relevant that Twitter knows it must produce, including but not limited to: board meeting minutes and related materials regarding the Merger; all drafts of the Merger Agreement exchanged; executive level org charts and org charts for Twitter's growth team, metrics task force, product management, investor relations, revenue team, engineering team, trust & safety, safety & integrity, and cybersecurity; documents cited, quoted, or referenced in the Complaint and Motion to Expedite; manuals and policies regarding mDAU, ad sales, advertising metrics, growth metrics, suspension rules, machine learning, and AI; documents responsive to RFP 1 in Defendants' Second Requests for the Production of Documents; all documents, materials and/or data you said you were ready to produce in your July 15 letter; all OC consent requests and responses; all items provided in the data room; all exchanged drafts of the Credit Agreement, Limited Guarantee, and Debt Commitment Letter. Twitter should commence immediate rolling production of these documents without delay. Please confirm that you will agree to do so immediately, and start these rolling productions tomorrow.

Please confirm your agreement to all of the above by no later than 5pm tomorrow, otherwise we intend to raise these issues with the Court.

Thanks,
Kate

From: Wilson, Bradley R. <BRWilson@wlrk.com>
Sent: Thursday, July 21, 2022 8:54 PM
To: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>; Emily Kapur <emilykapur@quinnemanuel.com>
Cc: Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>
Subject: RE: Twitter v. Musk

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

We reject your summary of last night's call, which references remarks that were never made and omits other important aspects of the discussion. Because we do not believe that engaging in a tit-for-tat exchange on the subject would be productive, we decline to do so.

We write instead to address a few substantive points:

First, as we discussed last night, Twitter believes that a prompt trial is essential for all of the reasons it has previously articulated, and would accordingly prefer to begin on October 10. Nevertheless, with the objective of removing points of contention, Twitter will not oppose commencing trial on October 17, if that remains your preference and is agreeable to the Court, provided that the Court has sufficient availability such that the trial could be completed by the end of that week. Once the Court shares its available trial dates with the parties, we will make ourselves available right away to determine the specific days for trial.

Second, as we have explained, Twitter is committed to move quickly to bring this case to trial in accordance with the Court's Order. We note in that regard, however, that expedition works both ways, and your proposed approach—under which Twitter would be obligated to comply with arbitrary and non-orderly deadlines dictated by Defendants, even before the parties have agreed to a schedule let alone a scheduling order, and without Defendants providing any corresponding commitments as to the timing of their own actions—is not reasonable. Most notably, Defendants have proposed to file their Answer on August 3, which is after the 20-day deadline that would apply under the Court's rules in a non-expedited case. To address this issue, we propose the following: (a) Twitter will serve responses and objections to the pending document requests within two business days after Defendants serve their Answer, and will make itself available to meet and confer about the requests and a reasonable search protocol for identifying responsive documents promptly thereafter; and (b) the parties will agree to a

presumptive deadline, applicable to both sides, for serving responses and objections to other document requests.

Third, in addition to reiterating our request that Defendants serve their Answer as promptly as possible, we ask that you please let us know immediately whether Defendants intend to assert Counterclaims. If that is indeed your intention, the need for Defendants to file their responsive pleading is even more urgent.

Fourth, Twitter accepts your proposed revision to paragraph 20(c) of the Confidentiality Order. However, Twitter cannot agree to your proposed insertion of paragraph 6(a). This is not the typical circumstance in which the primary defendant is a large organization, and we are concerned that agreeing to your proposed language would effectively nullify the Highly Confidential tier. Twitter does not intend to over-designate discovery material as Highly Confidential in this case, and we believe that we can address this issue on a document-by-document basis when the time comes. If you would like to meet and confer on this issue, we can make ourselves available tomorrow to do so.

Fifth, we continue to await Defendants' mark-up of our proposed pre-trial schedule. Please send it as soon as you can tonight.

Finally, with regard to the matter of your clients' access to the Firehose and Enterprise API feeds, we are advised that your understanding is not correct. Regardless, we have confirmed that your clients will continue to have access to these feeds through tomorrow and into the future. This continued access is being provided without prejudice to any of Twitter's rights. Your clients have been provided this access pursuant to the provisions of the Merger Agreement that govern your clients' information rights in connection with the Merger and not in the context of this litigation.

Regards,
Brad

From: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>
Sent: Thursday, July 21, 2022 3:47 PM
To: Wilson, Bradley R. <BRWilson@wlrk.com>; Emily Kapur <emilykapur@quinnemanuel.com>
Cc: Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>
Subject: RE: Twitter v. Musk

*** EXTERNAL EMAIL ***

Counsel,

Notwithstanding Defendants' First RFP # 1, reattached here, we understand the user interface for the Firehose and Enterprise API feeds indicates that Defendants' access to those feeds will terminate tomorrow. Please immediately confirm that Defendants' access will continue. If Twitter does plan to terminate Defendants' access tomorrow, we intend to raise this issue with the Court as well.

Lead Counsel from New York and Delaware remain available today to meet and confer regarding this and the issues raised yesterday.

Best,
Kate

From: Kathryn Bonacorsi
Sent: Thursday, July 21, 2022 12:15 AM
To: Wilson, Bradley R. <BRWilson@wlrk.com>; Emily Kapur <emilykapur@quinnemanuel.com>
Cc: Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>
Subject: RE: Twitter v. Musk

Counsel:

We write in response to this evening's correspondence. Neither the tenor of the call, which was marked by serial attempts by plaintiffs' counsel to cut off defense counsel or make rude remarks, nor the substance of the discussion was at all appropriate or consistent with what is required in this Court. We were surprised that Twitter took the position that the parties cannot even discuss key issues like early dates in the schedule until Mr. Musk proposes a date to serve his answer that Twitter finds acceptable. In short, the call was an utter failure because Twitter refuses to proceed forward, despite having sought expedition.

As to your summary, we disagree with your summary of our call:

- **Trial date:** we believe it would ease the burden on the Court if the parties to worked together to agree to either October 10 or 17 as the start date. We sought to understand whether your side had a conflict with the October 17 date, which we believe is more workable overall, including because of the tight timeline until trial. You refused to answer that question, let alone discuss agreeing to one or the other date, instead telling us you were not on the call with the Court and were not authorized to speak to anyone's schedule. Your position is obviously unproductive because we need to work together on this most basic issue.
- **Pre-Trial Schedule:** Each side provided proposed schedules in advance of the call. We provided ours approximately 40 minutes after you provided yours, and we expected the parties could at least begin to discuss where we might reach agreement and where we could not. Instead, you indicated that you were not willing to discuss the schedule at all. Elevating form over substance, you suggested that you expected us to provide our proposal as redlines to a Word document instead of in the body of an email before you would respond. This absurd request is precisely

the type of needless delay that has no place in an expedited case. There is absolutely no reason we cannot discuss proposed dates in whatever format either side proposes them, and we certainly came prepared to discuss your proposed dates. Further, to be clear, we did not say we would provide a counterproposal for an interrogatory limit; we simply said we rejected Twitter's proposed 10-interrogatory limit as it has no basis under the relevant rules. In contrast to your refusal to discuss any of the dates we proposed, we indicated we would take back your request for an earlier answer date and discuss with our team.

- **Ms. Musk Second RFP's 1&2:** We asked about these RFPs because prompt production in response to these RFPs is critical in order for Mr. Musk to have a fair hearing at trial. You responded that we were being unreasonable for asking to speak about them, would not agree to tell us when you would be prepared to speak about them, and instead referred again to Mr. Musk's answer, implying that Twitter may take the position these RFPs are irrelevant. The answer will not bear on these RFPs, and your refusal to even begin to discuss this issue with us is entirely unreasonable in the context of these expedited proceedings. It is evident that after seeking a hyper expedited schedule Twitter is using subterfuge to block progress in discovery. Whatever arguments Twitter has to make about Musk's defenses do not warrant a stay of discovery, particularly given Twitter's request for expedition.
- **Search Terms & Custodians:** There is every reason in this instance, when the Chancellor is unwell and out of the office, for the parties to work together on standard discovery issues in advance of finalizing the trial date. We did not think this would be controversial. The notion that our suggestion that we work on search terms and custodians together to make progress where there is often significant discussion between the parties was somehow unreasonable has no merit. Again, Twitter is blocking reasonable progress for no reason.
- **July 15 Letter:** We explained our position on the July 15 Letter in our July 19 Letter. You did not deny that the documents discussed in the July 15 Letter are available and ready for production, instead asserting that Twitter would produce nothing until after the Answer date is resolved. Having sought expedition, Twitter cannot secure a stay through self-help.
- **Protective Order:** This call would have been the time to address any issues with the Protective Order, but your side came prepared to discuss none, instead pointing to the lack of a protective order as another reason for delay. We trust you will not raise material issues regarding the Protective Order tomorrow.

In short, all of Twitter's positions are nothing but an artifice for delay, a posture that frankly is surprising given that Twitter sought expedition.

Lead Counsel from New York and Delaware are available for a meet and confer all day tomorrow to try to make progress on these issues. Absent clear progress towards agreement on at least the first portion of the schedule by the end of the day tomorrow, we will seek relief from the Court.

Best,
Kate

From: Wilson, Bradley R. <BRWilson@wlrk.com>

Sent: Wednesday, July 20, 2022 9:57 PM

To: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>; Emily Kapur <emilykapur@quinnemanuel.com>

Cc: Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP)

<ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SEddy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>
Subject: Twitter v. Musk

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

Thank you for organizing this evening's meet-and-confer call. We write to summarize the parties' discussions on that call:

1. **Trial Date:** You asked if Twitter would agree to commence trial on October 17 and present that date to the Court jointly. We explained that it is our understanding, based on the parties' recent call to Chambers, that the Court will be getting back to the parties soon with specific trial dates, which will fall either during the week of October 10 or the week of October 17. We told you that while our preference would be to start trial on October 10 (for all of the reasons set forth in our motion papers and presented at the hearing), we did not think it would be prudent to suggest specific dates given the guidance from Chambers.
2. **Pre-Trial Schedule/Answer to Complaint:** You agreed to send a markup of Twitter's proposed pre-trial schedule tomorrow. You previewed that the 10 interrogatory limit included in our proposed schedule is not acceptable and said that you would make a counterproposal as to the limit, which we said we would consider. We also asked that you answer the Complaint by this Friday, July 22, so the parties can properly factor that pleading into their thinking about the appropriate scope of discovery, in accordance with customary practice. You said that Defendants would not answer on Friday, claiming that our request was unreasonable and suggesting that the Answer would not be illuminative as to the scope of discovery because we should assume that your clients will deny all of the Complaint's allegations. We ask you to reconsider your position and commit to filing your Answer far sooner than you are currently proposing to do (i.e. August 3).
3. **Defendants' Second RFPs (RFPs 1 & 2):** You specifically inquired about Request Nos. 1 and 2 in your clients' second set of RFPs, which you had served only hours before the meet and confer. You stated that your experts need the data sought in those two Requests as soon as possible and asked us to tell you—more or less immediately—our clients' position regarding them. We told you that it was unreasonable to ask us to engage in a substantive discussion about discovery requests served only this afternoon, particularly given that your clients have neither served their Answer nor committed to doing so on any reasonable timeline. You nevertheless asked that we provide Twitter's position on these two requests in "a couple of days," and we told you that we would take that question under advisement.
4. **Search Terms & Custodians:** You asked that we send you Twitter's proposed custodians and search terms tomorrow. We do not believe this is a reasonable request, nor one that is consistent with customary practice in this Court, and we communicated that view on the call. Although we are prepared to cooperate with

reasonable discovery requests and work expeditiously to prepare this case for trial by mid-October, there is no basis for you to insist for information of this kind before your clients have Answered; before the parties have finalized a pre-trial schedule; before Twitter has served responses and objections to the relevant RFPs; and before we have held a single meet-and-confer call about the scope of discovery. This is the traditional order of things, even in expedited cases, and you provided no justification on the call for departing from this sensible practice.

5. **July 15 Letter:** You requested that Twitter immediately produce the data and information offered to your clients for in-person review (subject to the enumerated terms and conditions) in the letter sent by Messrs. Korman and Klein on July 15. We explained that the July 15 letter was sent pursuant to the provisions of the Merger Agreement that govern your clients' information rights in connection with the Merger and not in the context of this litigation. We explained that for purposes of this litigation, Twitter would consider any document request seeking the documents described in the July 15 letter and respond to such request in the ordinary course. We further explained that if your clients are interested in reviewing the documents described in the July 15 letter for a proper purpose related to the Merger, you should follow up with Messrs. Korman and Klein.

6. **Protective Order:** You asked that we send you a mark-up of the protective order by tomorrow, and we agreed to do so.

We look forward to receiving your mark-up of the pre-trial schedule.

Regards,
Brad

Bradley R. Wilson

Wachtell, Lipton, Rosen & Katz
51 West 52nd Street | New York, NY 10019
+1 (212) 403-1108 (Direct) | +1 (212) 403-2108 (Fax)
BRWilson@wlrk.com | www.wlrk.com

=====
Please be advised that this transmittal may be a confidential attorney-client communication or may otherwise be privileged or confidential. If you are not the intended recipient, please do not read, copy or re-transmit this communication. If you have received this communication in error, please notify us by e-mail (helpdesk@wlrk.com) or by telephone (call us collect at 212-403-4357) and delete this message and any attachments.

Thank you in advance for your cooperation and assistance.
=====

Exhibit H

From: David Mader

Sent: Tuesday, August 9, 2022 6:03 PM

To: Wilson, Bradley R. <BRWilson@wlrk.com>

Cc: Silpa Maruri <silpamaruri@quinnemanuel.com>; Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>; Emily Kapur <emilykapur@quinnemanuel.com>; Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SEddy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBYavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slights, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

Counsel,

Your August 4 search term proposal is unacceptable for several reasons, most particularly due to your elimination of the term "mDAU" despite its central relevance to Defendants' counterclaims. The burden of reviewing 11,263 documents for mDAU is minimal in comparison to the magnitude of this case, particularly where over 75% of the documents hitting on "mDAU" also hit on other search terms according to your July 27 hit report. Some of our other edits include adding limiters to relevant terms that you decided to strike whole-sale, adding back certain terms that, like mDAU, are central to Defendants' counterclaims and resulted in relatively small numbers of unique hits, and adding certain terms that Plaintiff's initial production has revealed to be relevant.

In turn, we have applied limiters to certain of the terms that were generating the highest unique hit counts on the 8/4/22 hit report, such as JP, MS, and compromise*. A redline showing the differences between your revised proposal and ours is attached.

Please provide a new hit report reflecting our revisions, and confirm which custodians you are including in that report as well as the applicable date range. In addition, we request that you promptly let us know which custodians were included in each of the two hit reports you previously provided. We reserve all rights to seek further revisions pending the outcome of the dispute regarding Twitter's custodians.

Finally, we will be providing updated hit reports as requested in your email from earlier today as soon as they are available.

Regards,

David

David Mader

Partner

Quinn Emanuel Urquhart & Sullivan LLP.

51 Madison Avenue, 22nd Floor

New York, NY 10010

646.241.8334 Cell

212.849.7148 Direct

212.849.7100 FAX

davidmader@quinnemanuel.com

www.quinnemanuel.com

NOTICE: The information contained in this e-mail message is intended only for the personal and confidential use of the recipient(s) named above. This message may be an attorney-client communication and/or work product and as such is privileged and confidential. If the reader of this message is not the intended recipient or agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error and that any review, dissemination, distribution, or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by e-mail, and delete the original message.

From: David Mader <davidmader@quinnemanuel.com>

Sent: Monday, August 8, 2022 5:19 PM

To: Wilson, Bradley R. <BRWilson@wlrk.com>

Cc: Silpa Maruri <silpamaruri@quinnemanuel.com>; Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>; Emily Kapur <emilykapur@quinnemanuel.com>; Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEddy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBYavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slights, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

Counsel, after you sent the search term proposal referenced in your e-mail, we responded that we were reviewing and would be prepared to meet and confer on it. We certainly do not agree that your August 4 proposal is acceptable, particularly where the parties have not reached agreement on an appropriate set of custodians. We will respond in due course.

Regards,

David

David Mader

Partner

Quinn Emanuel Urquhart & Sullivan LLP.

51 Madison Avenue, 22nd Floor

New York, NY 10010

646.241.8334 Cell

212.849.7148 Direct

212.849.7100 FAX

davidmader@quinnemanuel.com

www.quinnemanuel.com

NOTICE: The information contained in this e-mail message is intended only for the personal and confidential use of the recipient(s) named above. This message may be an attorney-client communication and/or work product and as such is privileged and confidential. If the reader of this message is not the intended

recipient or agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error and that any review, dissemination, distribution, or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by e-mail, and delete the original message.

From: Wilson, Bradley R. <BRWilson@wlrk.com>

Sent: Monday, August 8, 2022 5:12 PM

To: David Mader <davidmader@quinnemanuel.com>

Cc: Silpa Maruri <silpamaruri@quinnemanuel.com>; Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>; Emily Kapur <emilykapur@quinnemanuel.com>; Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBYavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slights, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

It has been more than four days since we sent you a revised search term proposal for Twitter's review. Given that we are now only three weeks away from the substantial completion deadline, and that we have a significant number of attorneys reviewing documents essentially around the clock, we cannot wait any longer.

We have concluded from your silence that the proposal we sent on August 4 was acceptable to defendants and are conducting Twitter's review on that basis.

Regards,
Brad

From: Wilson, Bradley R.

Sent: Thursday, August 4, 2022 3:10 PM

To: 'David Mader' <davidmader@quinnemanuel.com>

Cc: 'Silpa Maruri' <silpamaruri@quinnemanuel.com>; 'Kathryn Bonacorsi' <kathrynbonacorsi@quinnemanuel.com>; 'Emily Kapur' <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; 'Alex Spiro' <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; 'Matthew Fox' <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; 'Rosenello, Lauren N' <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBYavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slights, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC)

Counsel,

We write in response to your email of yesterday afternoon.

- Twitter Email Custodians: Twitter has agreed to search emails for 20 custodians spanning multiple levels of and areas within the company. These proposed custodians include: (i) Twitter's CEO; (ii) the CFO; (iii) the General Counsel; (iv) the Chief Accounting Officer; (v) the head of IR; (vi) the head of corporate finance; (vii) two members of the corporate development team who were directly involved in responding to Mr. Musk's post-signing information requests; (viii) the head of the function responsible for designing and implementing Twitter's policies to identify and address false and spam accounts; (ix) the data scientist who leads the team that calculates Twitter's reported mDAU; (x) the technical program manager who manages the vendor-contracted agents who conduct the quarterly mDAU audit; (xi) all eight outside directors on Twitter's board; and (xii) Twitter's former CEO, Jack Dorsey.

Based on the dozens of interviews we have conducted to date and our ongoing document review, we believe this list of proposed email custodians amply covers the waterfront of the claims and defenses that will be presented at trial, as we have explained on our various meet-and-confers and in the accompanying email correspondence. Our proposal is also more than reasonable from a burden perspective in the context of this highly expedited case. Although we have not finalized search terms, we expect that the email review alone for these custodians will require Twitter to parse through more than 100,000 documents, and this of course does not include all of the other document sources we are collecting and reviewing.

By contrast, and despite the Court's clear confirmation that discovery in this case is to be bilateral, defendants have offered to search the files of only two custodians, and you have indicated that you believe Twitter's proposed email search—which we understand generated fewer than 33,000 hits from the account that you have represented is likely to contain the bulk of Mr. Musk's responsive emails—is unduly burdensome.

Nevertheless, in an effort to avoid burdening the Court with motion practice on email custodians, Twitter has sought compromise. Most recently, we indicated we would be willing to discuss adding more than ten additional email custodians—including [REDACTED], a domain specialist with personal involvement in Twitter's policies regarding the detection of spam and false accounts (Corey Faibish), and the QA/agents from Cognizant who handled the Q4 2021 mDAU audit—provided that defendants agreed to remove certain custodians they have said they are not interested in but have refused to identify. Unfortunately, defendants did not accept the proposal, or even counter it.

Instead, defendants responded yesterday afternoon by sending a list of 51 individuals to consider as potential custodians, 23 of whom you had never previously identified, and at least two of whom did not even work at Twitter during the time period covered by defendants' document requests. This response was not constructive, and leaves us little choice but to conclude that defendants are not interested in reaching a reasonable agreement with Twitter on this issue.

In spite of this, Twitter is willing to make the following further attempt at compromise: Twitter will add [REDACTED] and Corey Faibish as email custodians without any offsetting deletions from

Twitter's current proposed list. This would bring the total number of Twitter email custodians to 22. Please let us know by tomorrow whether defendants accept this proposal.

- Search Terms for Twitter's Email Review: As shown on the hit report we sent you on July 28, the search term proposal you sent on July 27 with respect to Twitter's email review generated more than 245,000 hits based on the emails that had been ingested into our review platform at that time. That level of volume for the email review alone is not reasonable, particularly in this expedited case.

We have accordingly revised our proposal to include a number of the terms you proposed on July 27 (with appropriate limiters in those instances where your proposed terms were generating an outsized number of unique hits), while eliminating certain facially irrelevant terms from your proposal. A redline showing the differences between our initial proposal and our revised proposal is attached, together with a hit report. As you will see, our revised proposal includes 174 search terms and generates more than 100,000 hits for emails and families.

Please let us know if our revised proposal is acceptable. If necessary, we are available to meet-and-confer on the subject later today or tomorrow. Our proposal is subject to the same reservations noted in our July 26 initial proposal.

- Text Message Custodians: Twitter expects to be in a position to send a proposed list of text message custodians by no later than tomorrow.

As noted above, we propose to convene a meet-and-confer either later today or tomorrow to discuss Twitter's revised search term proposal and the other outstanding discovery-related issues.

Regards,
Brad

From: Wilson, Bradley R.

Sent: Thursday, August 4, 2022 11:53 AM

To: 'David Mader' <davidmader@quinnemanuel.com>

Cc: Silpa Maruri <silpamaruri@quinnemanuel.com>; Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>; Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBYavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slights, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

Counsel,

We expect to respond to your email from yesterday by 3:00 p.m. EDT.

Regards,
Brad

From: David Mader <davidmader@quinnemanuel.com>

Sent: Wednesday, August 3, 2022 3:10 PM

To: Wilson, Bradley R. <BRWilson@wlrk.com>

Cc: Silpa Maruri <silpamaruri@quinnemanuel.com>; Kathryn Bonacorsi <kathrynbbonacorsi@quinnemanuel.com>; Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBVavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slights, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

*** EXTERNAL EMAIL ***

Brad:

Suffice it to say we're disappointed by your response below. For more than a week, we have been working in good faith to "identify specific groups/functions within Twitter from which [we] are seeking documents," as you specifically requested on July 26. To that end, we have repeatedly identified the roles and functions of individuals within Twitter we believe likely to have unique, relevant and discoverable materials, including during our meet and confer discussion on July 28 (as acknowledged in your e-mail of the same date), our e-mail of July 29, our e-mail of July 31, our lengthy meet and confer discussion on that same date, our e-mail of August 1, and our e-mail of August 2. Moreover, in response to your initial proposed list of Twitter e-mail custodians conveyed in your e-mail of July 29, we have repeatedly noted that we are specifically seeking documents from those with day-to-day responsibilities for the functions we have identified, rather than simply the executive- or board-level individuals who made up the substantial majority of your initial proposed list. Yet despite having expressly solicited Defendants' input, and despite repeatedly promising to take that input into account, you now abruptly indicate your intention to "bring these discussions to a close" based on a meritless accusation regarding Defendants' intentions. To be clear: Defendants are simply trying to ensure that Twitter's document production includes relevant materials, which must encompass materials collected from employees (and former employees, and third party employees within Twitter's control) who have had day-to-day responsibility for the roles and functions that we have repeatedly identified.

Instead, Twitter's current proposed list of e-mail custodians, which is substantially the same as the initial proposal conveyed in your July 29 e-mail, appears self-selected to suit Twitter's own needs, ignoring many of the roles and functions that Defendants have now repeatedly identified. As noted, we are particularly concerned by Twitter's omission of individuals involved in its day-to-day operations, who are likely to have relevant and unique information, and its omission of former employees who would have information relevant to Defendants' allegations that date in some instances back to 2018.

In light of Twitter's continued failure to identify current and former employees with day-to-day responsibility for the roles and functions we have identified, we have been forced to attempt to fill in the gaps in your latest proposed custodian list by identifying specific individuals we believe, based on our own investigations, to have relevant

information pertaining to the roles and functions that we have previously and repeatedly identified as being relevant to the matters in suit, in addition to those you have previously identified (such as Jack Dorsey, [REDACTED], Kayvon Beykpour, Corey Faibish, and QA/agents who worked on the mDAU sampling process for Q4 2021). Obviously Twitter is best placed to confirm the roles and responsibilities of these individuals, and accordingly we ask that by 12pm tomorrow you either confirm that Twitter will add the below individuals as custodians, or explain in writing why any of these individuals should not be added. We are prepared to meet and confer with you regarding these individuals at your earliest convenience, but again to be clear, absent a sufficient resolution of our request, we are prepared to seek relief from the Court.

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- Bruce Falck, *former Head of Revenue*
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- Jay Sullivan, *GM, formerly VP Consumer Products*
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- Kevin Cope, *Deputy General Counsel, Corporate, M&A and Employment*
- [REDACTED]
- [REDACTED]
- [REDACTED]
- Leslie Berland, *Chief Marketing Officer / Head of People*
- Lindsey Iannucci, *VP of Operations and Chief of Staff to the CEO*
- [REDACTED]
- Luke Simon, *Senior Director Engineering, Head of Twitter's Revenue Science Department*
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- Nick Caldwell, *GM, formerly VP Engineering*
- [REDACTED]
- Peiter "Mudge" Zatkoff, *former Head of Security*
- [REDACTED]
- [REDACTED]
- [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- *Vijaya Gadde, Legal, Policy and Trust Lead*
- [REDACTED]
- [REDACTED]

As to the other points you raise in your email below:

1. Collection Efforts: We are happy to provide updates about our collection efforts during our next meet and confer, just as we have provided during every previous meet and confer. Regarding Twitter’s collection efforts, your continued reliance on the number of custodians from whom you have collected as a measure of cooperation and progress is unpersuasive, as these custodians were self-selected and not based on Defendants’ needs in this case, as explained above.
2. Text Messages: As stated during our meet and confer on July 31 and in our email of August 1, we cannot consider your proposed method of reviewing text messages until you provide a proposal regarding the individuals whose communications Twitter seeks to collect. In order to move this discussion forward, please provide this proposal promptly to avoid any further delay. You also stated that while Twitter was willing to reciprocate this arrangement, you were not sure all of Twitter’s document custodians would be appropriate text/direct message custodians. Please advise on your position promptly so that we can fully consider your proposal.
3. Data Scientists: You have still failed to explain why you are entitled to this information now, and you have yet to identify any obligation that we have under the rules of discovery to share the identities of these data scientists with you.

Regards,

David

David Mader
Partner
Quinn Emanuel Urquhart & Sullivan LLP.
51 Madison Avenue, 22nd Floor
New York, NY 10010
646.241.8334 Cell
212.849.7148 Direct
212.849.7100 FAX
davidmader@quinnemanuel.com
www.quinnemanuel.com

NOTICE: The information contained in this e-mail message is intended only for the personal and confidential use of the recipient(s) named above. This message may be an attorney-client communication and/or work product and as such is privileged and confidential. If the reader of this message is not the intended recipient or agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error and that any review, dissemination, distribution, or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by e-mail, and delete the original message.

From: Wilson, Bradley R. <BRWilson@wlrk.com>

Sent: Tuesday, August 2, 2022 8:38 PM

To: Silpa Maruri <silpamaruri@quinnemanuel.com>; Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBYavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slight, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

We write in response to your emails of yesterday afternoon and this morning, and to follow up on the email we sent you last night.

We begin with the subject of Twitter’s email custodians. Twitter has already agreed to search emails belonging to 20 custodians at various levels of the organization—the 19 officers, directors, and employees identified on the chart included in our July 30 email, plus Jack Dorsey (as to his @Twitter.com email address). This is precisely **10x** the number of custodians that defendants have offered to date. Twitter has also conveyed its willingness to potentially add to its list [REDACTED] and the QA/agents who worked on the mDAU sampling process for Q4 2021, subject in both cases to appropriate date range limitations. Were all of those individuals to be added to Twitter’s email review, Twitter’s total number of custodians would increase substantially.

We identified the individuals in our proposal by doing exactly what Delaware courts require: We “interview[ed] . . . potential custodian[s]” and “vetted” our resulting list with our client. *Fortis Advisors LLC v. Johnson & Johnson*, C.A. No. 2020-0881-LWW, 2021 WL 4314115, at *2-3 (Del. Ch. Sept. 21, 2021). Our process has included dozens of interviews of Twitter executives and employees across multiple parts of the organization, and has been further informed by our ongoing review of potentially responsive documents. Twitter conducted this interview process with extreme alacrity in spite of defendants’ effort to foster uncertainty and delay by waiting until this past Friday afternoon—only 2 business days ago—to serve their 91-page counterclaim pleading.

In an effort to resolve this issue promptly, and hopefully without burdening the Court, we have also been working diligently and in good faith to provide defendants with prompt responses to their custodian-related questions. We have endeavored to continue to be responsive to your inquiries even though we have already provided defendants with far more information than is typically exchanged when negotiating search protocols in expedited cases like this one. However, as our discussions have progressed over the past several days, we have become increasingly concerned that defendants have no genuine interest in reaching agreement. It has instead become apparent that defendants’ strategy is to demand increasingly trivial, irrelevant, and burdensome information—such as the “titles and roles” of more than 100 Twitter employees, as requested in your email this morning—in an effort to prevent the parties from resolving this issue on any reasonable timeline.

We intend to bring these discussions to a close. To that end, we are providing the following additional information in respect of the unresolved issues from Sunday's call:

- Further to the discussion in the first bullet of our email last night, Twitter is willing to consider adding Corey Faibish as an email custodian. Mr. Faibish's title is Senior Domain Specialist, Threat Disruption, and he is an indirect report of Yoel Roth. Mr. Faibish has involvement with Twitter's policies regarding the detection of spam and false accounts, among other responsibilities.
- Twitter has considered the additional information you provided on Sunday's call regarding your request that Twitter add [REDACTED], [REDACTED], and Kayvon Beykpour as email custodians. As to [REDACTED], given that he left the organization before the start of defendants' proposed date range, we do not believe it would be sensible to add him as a custodian. As to [REDACTED], we have confirmed that his work on data privacy/security issues does not relate to spam or false accounts. Finally, regarding Mr. Beykpour, although we remain unpersuaded that he should be added as an email custodian, we are willing to discuss the issue further on our next call.
- As we have explained, Concentrix is Twitter's current vendor for the mDAU audit process that is overseen by Emmy Anargyros. Based on further investigation, we can now clarify that Concentrix became the vendor for that process in February 2022. Previously, the vendor for Twitter's mDAU audit process had been Cognizant, although we understand that many of the same agents who handled this assignment on behalf of Cognizant remained involved after Concentrix assumed the relationship.
- Finally, we have confirmed that Ms. Anargyros is the only Twitter employee with direct involvement in reviewing the result of the mDAU audit conducted by the QA/agents from Concentrix.

As to your follow-up requests from earlier today, we believe they are unreasonable, unduly burdensome, and largely duplicative of information we have already provided. Once you have reviewed the information set forth above, we will make ourselves available for a final meet-and-confer regarding Twitter's proposed email custodians. But we wish to make clear in advance of that discussion that Twitter's willingness to add any more email custodians will depend in substantial part on defendants' reciprocal willingness to drop others from the current list.

We turn now to the other issues addressed in the recent correspondence:

- Defendants' Collection: Your email does not explain why defendants have yet to complete collection from Mr. Birchall's email account. We will expect an explanation on our next meet-and-confer.

We will also expect an update at that time on your discussions with SpaceX concerning collection. In particular, we would like to better understand the purported national security concerns you referenced, which did not come up in any of our prior discussions. We further note in this regard that there is no basis for defendants' attempt to draw a comparison between our efforts to collect documents from Mr. Durban, a non-party, and your efforts to collect documents from Mr. Musk—the primary defendant and key witness in this case. As you have not disputed, the procedure we are following for Mr. Durban, including the involvement of the witness's personal counsel, is entirely customary in litigation of this nature.

- Text Message Review: To clarify, our proposal is to conduct a linear review of text messages supplemented by search terms. Although we are prepared to provide defendants with an initial list of counterparties for the linear review, only defendants know whom Messrs. Musk and Birchall texted with on relevant topics. As such, we would expect defendants to agree to identify any additional relevant individuals for their linear review. We would agree to an equivalent protocol for the Twitter custodians for whom we believe text-message reviews are appropriate.
- Plaintiff's Collection: Your attempt to suggest that the parties are similarly situated in terms of their progress in collecting potentially responsive documents is unserious. Defendants have two custodians, and you have finished collecting emails for neither of them. Twitter has agreed on 20 custodians, and has collected emails for nearly all of them, in addition to other document sources. These facts are not in dispute.
- Data Scientists: Your refusal to identify these individuals on the basis of the attorney-client privilege and the work-product doctrine is unlawful and highly prejudicial to Twitter. Plaintiff will further address this matter in due course.

Regards,
Brad

From: Silpa Maruri <silpamaruri@quinnemanuel.com>
Sent: Tuesday, August 2, 2022 12:28 PM
To: Wilson, Bradley R. <BRWilson@wlrk.com>; Kathryn Bonacorsi <kathrynbacorsi@quinnemanuel.com>
Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NB Yavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slights, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>
Subject: RE: Twitter v. Musk

*** EXTERNAL EMAIL ***

Brad,
As you're aware, we've been requesting this information for several days, so we disagree that our request is unreasonable. We look forward to your response today and ask that you expedite it to be as prompt as feasible.

Regards,
Silpa

From: Wilson, Bradley R. <BRWilson@wlrk.com>
Sent: Tuesday, August 2, 2022 11:47 AM
To: Silpa Maruri <silpamaruri@quinnemanuel.com>; Kathryn Bonacorsi <kathrynbacorsi@quinnemanuel.com>
Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex

Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBYavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slight, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

Your demand for a substantive response to your lengthy recent emails by 12:00 p.m. EDT is not reasonable. We are preparing a response in consultation with our client and will send it in due course today.

Regards,
Brad

From: Silpa Maruri <silpamaruri@quinnemanuel.com>

Sent: Tuesday, August 2, 2022 9:57 AM

To: Wilson, Bradley R. <BRWilson@wlrk.com>; Kathryn Bonacorsi <kathrynbacorsi@quinnemanuel.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBYavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slight, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

*** EXTERNAL EMAIL ***

Brad:

Please provide the additional custodial information we requested by noon EST today. We need sufficient time to analyze and consider the custodial information – including in the context of the proposed list overall – in order to have a productive meet and confer today. You have stated numerous times that you would like finalize the custodian list as soon as possible. However, we continue to encounter delays on your end in receiving complete information. For example, despite stating that you would let us know “as soon as possible” whether you would not be able to provide the custodial information we requested by last night, you waited until after 11 pm EST to tell us that you would not be able

to provide key custodial information about the mDAU audit process and vendors – an area we identified as key *last Wednesday* – until some unspecified time today due to a Canadian holiday.

In addition, you have failed to answer several of the specific questions we asked, including among others (1) who manages and/or maintains and/or monitors Twitter’s user data and whether that data is stored in a database and (2) who tracks Twitter’s user metrics and KPIs. These delays are highly prejudicial to Defendants, particularly where you have indicated that Twitter has objections to Defendants’ proposed search terms and relevant date ranges, topics we cannot even address until Twitter’s custodian list has been finalized. Please also be prepared to address the unanswered questions on our call.

Separately, while we will have additional questions, we request answers to the following now for clarity’s sake:

- Can you please provide more information regarding the structure of Yoel Roth’s group, Safety & Integrity? This would include the titles and roles of his direct reports, and the titles and roles of his indirect reports, and whether any of such persons have unique and relevant information related to Defendants’ allegations.
- Does Nick Caldwell have unique and relevant information related to Defendants’ allegations? Given you have for the most part provided higher level custodians, we are surprised he was not included as a custodian, as he is the general manager of Twitter’s core technology division, which seemingly would make him particularly relevant to this dispute.
- Can you please provide more information regarding Todd Doughty’s direct reports? This would include the titles and roles of his direct reports, and whether any of such persons have unique and relevant information related to Defendants’ allegations.
- Regarding Mr. Segal and Ms. Hayes (and Mr. Agrawal on (2)), your bald assertion that they are the “most relevant” custodians on the topics of (1) projecting mDAU into the future and analyzing/modeling the relationship between mDAU and revenue and (2) which KPIs to track and analyzing how those KPIs tie to revenue is insufficient. As the CFO, the VP of corporate finance, and the CEO, these individuals are at the highest level of the company, and unlikely to have information regarding the day-to-day functions involved in these topics. On our last call we emphasized the need for relevant custodians at lower levels, and we gave you the example of analysts who work on this issue. Please provide us that information promptly.
- Can you please provide more information regarding Krista Bessinger’s direct reports? This would include the titles and roles of her direct reports, and whether any such persons have unique and relevant information related to Defendants’ allegations.

Please confirm you will provide the additional custodial information and answers we requested – as summarized in in our email below – by noon EST today. We are available to meet and confer from 2-6pm EST.

Thanks,
Silpa

Silpa Maruri
Partner
Quinn Emanuel Urquhart & Sullivan, LLP

51 Madison Avenue, 22nd Floor
New York, NY 10010
212-849-7211 Direct
212-849-7000 Main Office Number
212-849-7100 FAX
silpamaruri@quinnemanuel.com
www.quinnemanuel.com

NOTICE: The information contained in this e-mail message is intended only for the personal and confidential use of the recipient(s) named above. This message may be an attorney-client communication and/or work product and as such is privileged and confidential. If the reader of this message is not the intended recipient or agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error and that any review, dissemination, distribution, or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by e-mail, and delete the original message.

From: Wilson, Bradley R. <BRWilson@wlrk.com>

Sent: Monday, August 1, 2022 11:08 PM

To: Silpa Maruri <silpamaruri@quinnemanuel.com>; Kathryn Bonacorsi <kathrynbacorsi@quinnemanuel.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBYavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slight, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

We will respond to your email from this afternoon in due course. We write now to update you on our efforts to gather the information you requested pertaining to Twitter's proposed email custodians.

We conferred at length with our client today and as a result are in a position to provide the following information:

- On yesterday's call, you asked for the number of direct and indirect reports for Yoel Roth. We understand that Mr. Roth—a longtime Twitter employee with significant experience at multiple levels of the organization—currently has 9 direct reports and more than 100 indirect reports. We also confirmed, per your request, that Mr. Roth's group oversees Twitter's efforts to both design and execute policies to identify false or spam accounts and suspend them from the platform. We are considering whether to propose an additional custodian with involvement in these issues and will revert on that point tomorrow.
- Regarding your request that Twitter add ██████████ as a custodian, we are prepared to discuss doing so subject to our need to discuss the relevant date range and our general concern about the overall burden of Twitter's email review. We will revert tomorrow on the other three additional proposed custodians you specifically identified on yesterday's call.
- You also asked for additional information about Todd Doughty, another one of Twitter's proposed email custodians. Mr. Doughty is responsible for calculating metrics relevant to Twitter's consumer organization (e.g. mDAU), and is an indirect report of Nick Caldwell, the GM of Twitter's core technology division. Mr. Doughty has 9 direct reports.
- Regarding your various questions about the mDAU audit process, we were not able to connect with Ms. Anargyros (who is the person at Twitter most knowledgeable about that process) because today was a national holiday in Canada where Ms. Anargyros resides. We will respond to your questions related to the mDAU audit process and the mDAU audit vendors tomorrow.

- You also requested that we identify the individuals at Twitter most involved in projecting mDAU into the future and analyzing/modeling the relationship between mDAU and revenue. We believe the most relevant custodians on this topic are Mr. Segal and Ms. Hayes, whom we have already included on our list of proposed email custodians. Likewise, in response to another question you asked, Mr. Segal and Ms. Hayes are also among the individuals at Twitter most involved in determining which KPIs to track and analyzing how those KPIs tie to revenue. Mr. Agrawal, another of our proposed custodians, also has significant involvement with these issues.
- You also asked us for the number of direct and indirect reports for Krista Bessinger. Ms. Bessinger has 3 direct reports and no indirect reports.
- Finally, you asked us to identify the individuals at Twitter involved in the decision to file the India lawsuit that is addressed in defendants' counterclaims. Those individuals are Vijaya Gadde and Sean Edgett, both of whom are attorneys, and the latter of whom is already on Twitter's list of proposed custodians.

We expect to provide tomorrow responses to defendants' remaining inquiries in relation to our discussions about Twitter's email custodians. We will make ourselves available to meet-and-confer promptly thereafter, at a mutually convenient time tomorrow afternoon/evening.

Regards,
Brad

From: Silpa Maruri <silpamaruri@quinnemanuel.com>

Sent: Monday, August 1, 2022 4:54 PM

To: Wilson, Bradley R. <BRWilson@wlrk.com>; Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBVavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slights, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

*** EXTERNAL EMAIL ***

Brad:

We write to address and clarify several points you raise below.

1. Plaintiff's Email Custodians and Collection: We find it surprising that Twitter has raised issue with the status of Defendants' collection efforts given its own incomplete performance. During our call, you stated that you have not collected documents from three of your own proposed custodians and that you have not collected any documents from any contested custodians. You failed to provide any timeline for when such collections would be completed. Moreover, we understand that even with respect to the remainder, your only representation

was that you had collected email data—not that you had collected the full repository of information that they possess (such as personal devices, cloud-based materials, text messages, direct messages). Again, you did not explain when you expect to complete those collections. While Plaintiff nonetheless attempted to suggest that Defendants’ collection is the bigger issue, as Defendants noted, Defendants have far less to collect and do not anticipate any trouble meeting the document production deadline. Please advise as to when Plaintiff’s collection efforts began, when its review of documents commenced, and what it intends to produce on the August 4th deadline.

2. Defendants’ Collection Efforts & Review: Plaintiff’s suggestion that there is anything concerning about Defendants’ collection is entirely misplaced. As we explained on our call – just as we have explained on prior calls – we started our collection efforts as soon as Twitter filed suit and have been working diligently to collect relevant documents. As we also explained on the call, we have collected from Mr. Musk’s main email account (Tesla), and we expect to be done collecting from his secondary account shortly, as well as from Mr. Birchall’s account. We do not expect to have any issues meeting the court-ordered deadlines. Indeed, as we confirmed to you, we have agreed to start our document review immediately. We therefore do not understand your stated “concern” about the progress of our collection, particularly where your own collection is far from complete.

With respect to our method of collecting, following efforts to confirm certain issues following our call, we can confirm upon further discussion with our vendor that we collected Mr. Musk’s entire Tesla email account, and that collection is reflected in the hit report we already provided. As noted, we will start reviewing those documents immediately. As for Mr. Birchall’s email account, we can confirm we are in the process of collecting his entire Excession email account. However, as for Mr. Musk’s SpaceX account, we will have to revert as to whether we can collect the entire account, rather than run your proposed search terms across it and collect those documents into the review database. This account – which Mr. Musk did not use frequently to discuss or communicate about the present dispute or issues related to Tesla –contains documents and communications implicating national security. We are in discussions with SpaceX to assess whether there is a feasible work around. However, we would be surprised if the search term approach on this account only presents an issue, given that you have represented that you are not willing to do a full email collection for at least one of your custodians, Egon Durban, and instead intend to proceed exactly as we have proposed for Mr. Musk’s secondary email account at SpaceX. Mr. Durban does not have the same privacy or national security considerations as Mr. Musk does as to his SpaceX account, and it appears Plaintiff is proposing this mode of collection from Mr. Durban’s main email account.

3. Twitter’s Outside Directors: As noted above, we are highly concerned by the incongruous position that Plaintiff has taken regarding its collection obligations as to Egon Durban, a director, and the collection obligations of Defendants. Plaintiff advised that it would not collect Mr. Durban’s full email account and would instead only collect documents that hit on certain search terms, due to Mr. Durban’s unspecified privacy concerns. As noted above, Defendants advised that this position was inconsistent with the position that Plaintiff has taken with respect to Mr. Musk, who has much more significant data privacy concerns than those stated by Mr. Durban. The approach as to Mr. Durban is also inconsistent with how Plaintiff is collecting the remaining directors’ emails: Plaintiff explained that as to the remaining outside directors on its custodian list, the directors’ counsel, Simpson Thacher, is going to conduct a review for responsiveness before providing Plaintiff with documents resulting from that review. Plaintiff will then conduct its own review using the agreed on search terms, and will further assess responsiveness, as well as privilege. Even that review is inconsistent with Plaintiff’s position regarding Mr. Musk. We ask that you confirm your final position with respect to Mr. Durban’s email account by tomorrow.
4. Twitter’s email custodians: We are increasingly concerned by the delays we have encountered regarding the receipt of information regarding Twitter’s custodians, as well as basic information about Twitter’s organizational structure. During our call, we were forced to rehash explanations that we have previously provided regarding what types of custodians we are seeking and why – information that Twitter’s counsel did not have handy. In

light of these facts, we are surprised by your suggestion that Defendants are the reason for any delay regarding finalization of Twitter's custodial list.

Regarding Twitter's email custodians, we explained on the call that most of Twitter's proposed custodians are unlikely to have information regarding the core issues in this case, including the issues raised in our counterclaims, which you suggested you had not yet studied closely. Among other omissions – and as explained on the call – we are concerned by the lack of individuals involved in Twitter's day-to-day operations, as those individuals are very likely to have relevant information. We are also concerned by your seeming unwillingness to provide custodians who no longer work at Twitter; the fact that an individual does not work at Twitter is not a basis for exclusion, particularly given that our counterclaims contain allegations that go well past the “relevant time period” that you have insisted upon. Given the high turnover rate of employees at Twitter, the custodians will necessarily include former employees. As you are undoubtedly aware, it is standard in litigation to include former employees as custodians, and we expect your next counterproposal to include former employees.

We also discussed in detail the following specific types of custodians that are missing from your counterproposal. We were disappointed to have to review these categories again, which had already been shared by email and discussed during prior phone calls. Nevertheless, during the call, Plaintiff committed to investigate the following categories and to provide its responses to us today:

- a. Spam Detection and Prevention. Defendants asked Plaintiff to identify which custodian on its proposed list falls within this category and, if none of the custodians fall within this category, to identify an additional custodian who does. Plaintiff stated that Yoel Roth, one of its proposed custodians, is responsible for combatting spam on the platform. Consistent with prior email correspondence, Defendants again proposed adding ██████████ as an additional custodian. Plaintiff agreed to consider the addition of ██████████ and agreed to confirm whether ██████████ possesses the relevant information that Defendants expect she does. Regarding Yoel Roth, Defendants asked Plaintiff to identify how large Mr. Roth's department is and how many direct and indirect reports he has. Defendants also asked Plaintiff to confirm whether Mr. Roth's department is both responsible for setting policy goals and implementing the procedures to achieve those goals, or whether those two responsibilities are handled by different departments. Plaintiff agreed to investigate whether those two responsibilities are handled by Mr. Roth's department or by different departments. To the extent different departments handle them, Defendants stated they would request a custodian from each department.
- b. mDAU Audit Process. Defendants requested clarification regarding whether Emmy Anargyros and Todd Doughty are both involved in the mDAU audit process. Plaintiff explained that Mr. Doughty was more involved in calculating the overall mDAU, but did not know whether he had direct involvement in the actual audit process. Defendants asked Plaintiff to identify the department that Mr. Doughty works in and to whom Mr. Doughty reports. Plaintiff agreed to provide such information. Defendants also asked Plaintiff to identify how many people are on the committee that reviews the audit process, and informed Plaintiff that Defendants' position is that all such committee members should be document custodians. Plaintiff stated its belief that it is a one-person committee, but agreed to confirm who is on the committee.
- c. mDAU audit vendors. Defendants asked Plaintiff to confirm that Concentrix is the only vendor Twitter used for the mDAU audits, and Plaintiff stated that Concentrix is the only vendor that was used during “the relevant period,” which Plaintiff identified as the fourth quarter of 2021. In response, Defendants asked Plaintiff to investigate whether there are any other vendors that Twitter used in connection with the mDAU audits during Defendants' proposed relevant period. Plaintiff agreed to investigate and provide that information. Defendants also asked that Plaintiff provide further information on Innodata, including whether they are involved in the mDAU audit process. Plaintiff agreed to do so.

- d. Relationship Between mDAU and Revenue. Defendants also stated that they did not see anyone on Plaintiff's custodian list who would be likely to have relevant information on this topic. While Plaintiff suggested the finance people on its custodian list would have relevant information on this topic, Plaintiff was unable to say whether any of the individuals were principally concerned with creating projections and forecasts regarding mDAU, setting the mDAU targets, and analyzing how mDAU relates to revenue. Plaintiff agreed to investigate who at Twitter is responsible for each of these functions.
- e. Investor Relations. Defendants asked Plaintiff to identify the size of the Investor Relations department, and to identify Ms. Bessinger's direct and indirect reports. Plaintiff agreed to investigate and provide this information.
- f. User Data. Defendants explained that they are looking to add the person behind collecting, maintaining, and monitoring user data. Plaintiff suggested there may not be a person who could be added as a custodian on this topic, but agreed to investigate. For examples of the types of user data we are interested in, please see RFPs 1-4 & 41 in the revised set of RFPs we served Friday night.
- g. Investigations. Defendants clarified that they are looking for a document custodian with information related to the lawsuit in India and the history regarding censorship in India that predated that lawsuit. Plaintiff agreed to investigate whether there is someone other than the General Counsel who is involved in the India lawsuit, and to report as to who that is.
- h. Determining KPIs and Metrics to Track. While Plaintiff suggested that they did not understand the relevance of this request, Defendants clarified that this request bears on the good faith of Twitter's SEC disclosures. Defendants clarified that they are looking to add as a custodian the person or people who would have relevant information about Twitter's determination of which KPIs to track and who is actually tracking the KPIs. To the extent the tracking is performed by a computer program, Defendants are seeking the person who decides what data is being input into the program, and the person who analyzes the outputs from the program. Defendants also asked for the identification of any databases that are relevant to this question to the extent that databases are used to track this information. Plaintiff committed to look into these questions.
- i. Firehose. Defendants asked that the individuals who set up the custom firehose in response to certain of Defendants' earlier information requests be added as custodians. Defendants believe these individuals are [REDACTED] and [REDACTED]. Defendants believe a date range from May 1, 2022 to present would be appropriate for such custodians. Please advise as to whether these custodians will be added.

We also discussed the rejection of certain custodians that we proposed, namely, Kayvon Beykpour, [REDACTED], and [REDACTED]. Defendants elaborated on why these individuals may be relevant custodians: (1) Mr. Beykpour's termination forms the basis of one of Defendants' counterclaims, and we also have strong reason to believe he was involved in spam auditing, given he was the signatory on one of Twitter's agreements with a third party vendor that appears to have had a role in auditing; (2) [REDACTED] seems to have worked in the Planning & Analysis group, and based on public information, it seems that that group may be involved in the types of projections and targets we are interested in; and (3) [REDACTED] is a [REDACTED] which also suggests he may be involved in our identified areas of interest. Plaintiff agreed to consider adding these individuals as custodians.

Finally, while we noted that we would be amenable to discuss dropping certain custodians from the list, that discussion is premature unless and until we have a more complete list of custodians, including those identified above and those in the groups above. When Twitter advised Defendants that it would commence its review, we noted that we had no objection but were reserving our rights to add custodians; that Defendants are willing (based on Twitter's request) to consider removing certain custodians is only indicative of the reasonableness of

their position, and Plaintiff cannot feign surprise or use its decision to commence review to limit these discussions. Moreover, while Twitter attempts to paint this issue as one of delay on Defendants' part, we have been requesting information regarding custodians for nearly a week. As a result, we reiterate our request that you provide the requested information today to avoid any further delays. Any burden associated with commencing review of Twitter's self-selected list of custodians— without regard to the custodians we have proposed— is entirely one of your own making, and one that it is in your power to alleviate by providing the requested information quickly.

5. Text Message Review: While Plaintiff proposed that the parties agree to conduct a linear review of text messages, as we stated on the call, we cannot assess and consider your proposal of conducting a linear review until Plaintiff provides a proposal regarding the individuals whose communications it seeks to collect, in order to assess the burden associated with a non-search term assisted review. You agreed to provide this information. Please do so promptly to avoid any delay in our consideration of this issue. You also stated that while Plaintiff was willing to reciprocate this arrangement, you were not sure all of Plaintiff's document custodians would be appropriate text/direct message custodians. When we asked you to clarify which custodians you believed would not be proper text message custodians, you told us that you were not in a position to advise us on the call, but that you would tell us your position at a later point. Please advise on your position as to these issues promptly so that we can fully consider your proposal.
6. Data Scientists: During our call, you asked us to consider whether we would provide you with the names of our consulting experts, and the dates of their engagement. You've mischaracterized our response regarding the positions that we took with respect to such scientists; during our call, we asked you questions regarding why you felt you were entitled to this information. We told you we would consider your request, and revert with our positions regarding whether we would provide the requested information. Having considered your request, we do not believe that you are entitled to his information, and you have not identified any obligation that we have under the rules of discovery to share the identities of these data scientists with you.
7. Jack Dorsey. Plaintiff confirmed it is collecting Mr. Dorsey's Twitter e-mail account and any other custodial documents for Mr. Dorsey that are housed at Twitter. Plaintiff stated that Mr. Dorsey, who is no longer affiliated with the company and is being represented by George Garvey of Munger, Tolles & Olson LLP, has not agreed to provide any additional documents for collection. Plaintiff also stated it does not believe there is a cooperation agreement in place with Mr. Dorsey.
8. Slack Messages: In response to your questions regarding Slack, our understanding is that neither Mr. Birchall nor Mr. Musk used any messaging app or program to communicate about matters relevant to this litigation. We will specifically ask about Slack and revert once we have confirmation.
9. Google Drive. Plaintiff agreed to revert with its proposal regarding the collection of documents stored on Google Drive. Plaintiff also agreed to revert regarding whether there are any other cloud-based sources that may have relevant information for its document custodians.

Please let us know when we can expect to receive the information you have agreed to provide, so we can schedule our next meet and confer. As to many of the items listed above, we were told to expect answers today, which we have yet to receive. Thank you.

Regards,
Silpa

From: Wilson, Bradley R. <BRWilson@wlrk.com>

Sent: Sunday, July 31, 2022 10:44 PM

To: Silpa Maruri <silpamaruri@quinnemanuel.com>; Kathryn Bonacorsi <kathrynbacorsi@quinnemanuel.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex

Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBYavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slights, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

We write to summarize the parties' discussions on this afternoon's meet-and-confer call:

1. **Email Collection:** You informed us that you have not yet collected the entire contents (pertaining to the relevant time period) of any of the three email accounts you've committed to search, and that to date you have only been able to make a partial collection from Mr. Musk's Tesla account. As we explained, the state of defendants' email collection efforts is concerning. Twitter filed this lawsuit nearly three weeks ago, and it was entirely foreseeable that we would be seeking the production of Mr. Musk's and Mr. Birchall's emails. We accordingly do not understand why these collections were not completed many days ago.

Moreover, even apart from the question of timing, the fact that defendants had not been planning to collect the entire contents of any of the email accounts that you have identified as containing relevant documents is neither reasonable nor consistent with Delaware practice. This is especially true with respect to the accounts used by Mr. Musk, who is the primary defendant in the case and far and away its most important witness. To reiterate the request we made on the call: We ask that defendants either (a) agree to collect Mr. Musk's and Mr. Birchall's entire email accounts for the relevant time period, and commit to doing so immediately, or (b) provide an explanation as to why they are refusing to do so. We further request (as conveyed on the call) that defendants either provide this information tonight, or let us know a time certain by which they will provide it.

2. **Email Review:** Compounding Twitter's concerns, you also informed us on the call that defendants have not yet commenced a responsiveness review process for even the subset of emails that you have collected to date. Although you expressed confidence that defendants would nevertheless meet the substantial completion deadline, the Scheduling Order requires both sides to have commenced a rolling production of documents by August 4.

Following our discussion of this issue, you agreed that defendants would immediately commence a review of emails hitting on those of Twitter's proposed search terms to which you do not object, pending further discussions about our search term proposal (which we agreed would take place early this week). We appreciate your commitment to start this review. Please let us know when defendants anticipate commencing their production of responsive emails.

3. **Text Message Review:** We stated Twitter's position that a linear review of Mr. Musk's and Mr. Birchall's text messages, supplemented by application of search terms across all of their text messages, was appropriate in this matter. You asked whether Twitter would apply the same

process to its custodians, and we agreed to do so for at least a subset of Twitter's email custodians, based on each individual's relative level of involvement in the events underlying this litigation and bearing in mind Twitter's reasonable concerns about its overall review burden in this expedited case. On the call, you seemed amenable to the text message review approach that we discussed, but you indicated that you would need to discuss our proposal further with your team. We look forward to hearing back from you on this issue.

We did not get into detail on this afternoon's call about the review protocol for Twitter DMs. We will plan to raise that issue when next we speak.

4. Data Scientists: We again asked that you identify the data scientists retained by Mr. Musk (and/or his advisors) to analyze data that he received from Twitter. You again declined to do so on the basis of the attorney-client privilege and the work-product protection, and you further reiterated your position that defendants' refusal even to provide the identity of these data scientists is justified on the ground that they are consulting experts for defendants.

To facilitate our evaluation of that claim in particular, in keeping with defendants' burden to justify any claim of privilege, we asked that you identify (a) the date such data scientists were engaged by Mr. Musk, and (b) if different from the date of engagement, the date on which they became consulting experts with respect to this litigation. You declined to provide this information during our call, but agreed to present our requests to your broader team and revert. As we explained, defendants' refusal to date to identify the specified data scientists is prejudicing Twitter's ability to build a record in this expedited case, specifically by thwarting our intention of serving subpoenas on the data scientists. Accordingly, to reiterate the request we made during this afternoon's call, we ask that defendants provide responses to the foregoing questions (a) and (b) by tomorrow.

5. Slack & Other Messaging Services: We informed you that we are in the process of collecting Slack communications from our proposed Twitter custodians. You represented that you did not have a basis to believe that either Mr. Musk or Mr. Birchall used Slack or any other instant messaging services to communicate about matters relevant to this litigation. Please confirm that you have asked Mr. Musk and Mr. Birchall whether they in fact used such instant messaging services to send or receive potentially relevant communications, and that they have affirmatively advised you they did not do so.
6. Twitter's Email Custodians: During the call, we had an extensive back-and-forth discussion regarding Twitter's proposed custodians. In the course of that discussion, you asked for additional information regarding several of Twitter's proposed email custodians, including their positions and responsibilities at Twitter, as well as their place in the broader structure of the organization. We provided the information you requested to the best of our ability, based on our investigation to date, and committed to revert promptly in instances where we did not have the requested information readily at hand. You also described in further detail specific subject areas that you believe were not addressed by the email custodian proposal we sent yesterday.

As we told you during the call, we intend to devote significant attention to this issue as a priority matter to obtain answers to your open questions and determine whether it is appropriate to supplement our proposed email custodian list based on the further details you provided. We expect to revert on these issues by the end of the day tomorrow. If we determine that we will need more time to provide a substantive response, we will so advise you as promptly as possible tomorrow. Once we have provided the additional information you requested, we will be prepared

to meet-and-confer again in an effort to finalize the list of Twitter's email custodians. As we have explained, we believe it is imperative that we resolve this threshold issue very promptly.

You also indicated that defendants are amenable to dropping several individuals from Twitter's list of proposed email custodians, on the ground that defendants do not require their documents, but you declined our request on this afternoon's call that you identify such individuals. As we have explained, Twitter is devoting substantial resources to the review process—indeed, Twitter's review of emails and other documents is well underway, with email collections having been completed for the vast majority of Twitter's proposed email custodians. Given the very real possibility that Twitter is actively reviewing emails belonging to individuals that defendants expect to drop as custodians eventually, your unwillingness to identify those individuals now is unreasonable and is imposing an unnecessary incremental burden on Twitter. We accordingly ask that you reconsider the position you took on the call and let us know now which of Twitter's proposed email custodians defendants wish to drop from the list.

Regards,
Brad

From: Wilson, Bradley R.

Sent: Sunday, July 31, 2022 2:29 PM

To: 'Silpa Maruri' <silpamaruri@quinnemanuel.com>; Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBVavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slight, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslight@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

We are available at 4:00 p.m. EDT. We will send a dial-in shortly.

From: Silpa Maruri <silpamaruri@quinnemanuel.com>

Sent: Sunday, July 31, 2022 1:40 PM

To: Wilson, Bradley R. <BRWilson@wlrk.com>; Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBVavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slight, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslight@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

Brad:

We are available to meet and confer today at 4 p.m. EST. If that works for your team, please circulate a dial in. As for your email below, we write to address and clarify a few points in advance of our call. We reserve our rights with respect to any points not specifically addressed below.

1. Email Custodians: Thank you for your counterproposal. Unfortunately, it is insufficient for several reasons. Among other things, we need not only the heads of relevant departments (*e.g.* Accounting, Finance, Trust and Safety), but also those with day-to-day roles and responsibilities *within* those departments. In fact, such individuals are even more likely to have relevant documents regarding Twitter's operations. Your omission of any such individuals is not acceptable. In your July 28 email, you committed either to providing a supplemental org chart or to explaining on the next meet and confer how your list ties "to the topics you have said you are focused on." As you have failed to supplement the bare bones "org chart" you produced, we look forward to hearing your explanation on today's meet and confer, as your proposal omits many of the categories we advised you that we were focused on. We would also like an explanation as to why you did not include in your counterproposal the individuals we specifically requested: Kayvon Beykpour, [REDACTED], [REDACTED], and [REDACTED]. With respect to Mr. Beykpour in particular, we allege that his firing was a breach of the ordinary course covenant. It is therefore essential you collect his documents.

While we look forward to discussing Concentrix as custodian – given that its employees were given @Twitter email addresses – we ask that you confirm Concentrix is the only vendor Twitter uses for mDAU sampling, and has been since 2020. We understand that Innodata had some role in mDAU/spam review. If any of their employees have (or had) @Twitter email addresses, we request that you add them as custodians as well.

2. Collection Efforts: Your suggestion that we have somehow delayed our collection is surprising, given the ongoing issues we have had in securing information from Twitter, including the issues described above. It is also surprising given the Court issued the scheduling order just *three days* ago. In any event, any such suggestion by Twitter makes little sense, given that Twitter refused to have any discussions about custodians or search protocols until less than a week ago. While Twitter filed suit on June 12, Defendants attempted to negotiate custodians within days of that filing and were repeatedly rebuffed (per the email exchanges below). As a result of these needless delays on *Twitter's* part, discussions regarding the appropriate list of custodians were delayed until five days ago. In its email correspondence, Twitter makes no representations that it has collected all of the data for the custodians that Defendants have requested, yet suggests that Defendants have somehow failed to comply with their discovery obligations because their collection efforts are not complete. Regardless, your suggestion that Defendants are failing to comply with their discovery obligations is misplaced. As we have explained during our numerous discussions and correspondence, we have already collected a substantial amount of documents since you filed this expedited litigation. We have furnished Twitter with an interim hit report consistent with these efforts, and have committed to providing updated hit reports as this process continues. We are happy to discuss our collection efforts further should you have additional concerns, as we certainly have concerns about your own collection efforts.
3. Third Party Discovery: We have accepted service of the subpoena on Mr. Gracias and are available to meet and confer tomorrow from 3:30-4:30pm EST, as we have communicated to Kobre & Kim.
4. Data Scientists: We are deeply concerned by your continuing failure to provide us with the authority for your position that you are entitled to discovery from data scientists working in connection with this matter. Discovery from any consulting experts is not permitted under the rules, nor are their identities the relevant object of discovery. As for our testifying experts, the schedule expressly provides for an August 15

deadline for expert disclosures, and it is unclear why you would be entitled to one-sided disclosures ahead of this deadline. The authority that you cite below regarding the fact that a privilege log is required to substantiate a claim of privilege is beside the point; Twitter has no basis to subpoena experts ahead of these deadlines. We have repeatedly asked for this authority, since Twitter's request to preemptively seek discovery in advance of the expert deadline is highly unusual. We are growing concerned that Twitter either has no basis for its request to seek such discovery or is simply hiding that basis in an attempt to sandbag Defendants, which is highly inconsistent with what is required in Delaware. Absent such authority, our position remains the same: we will not provide this information because we have no obligation to do so.

We look forward to discussing these issues on our call.

Regards,
Silpa

Silpa Maruri

Partner

Quinn Emanuel Urquhart & Sullivan, LLP

51 Madison Avenue, 22nd Floor
New York, NY 10010
212-849-7211 Direct
212-849-7000 Main Office Number
212-849-7100 FAX
silpamaruri@quinnemanuel.com
www.quinnemanuel.com

NOTICE: The information contained in this e-mail message is intended only for the personal and confidential use of the recipient(s) named above. This message may be an attorney-client communication and/or work product and as such is privileged and confidential. If the reader of this message is not the intended recipient or agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error and that any review, dissemination, distribution, or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by e-mail, and delete the original message.

From: Wilson, Bradley R. <BRWilson@wlrk.com>

Sent: Saturday, July 30, 2022 5:52 PM

To: Silpa Maruri <silpamaruri@quinnemanuel.com>; Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBYavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slights, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

Thank you for your email. Please let us know your availability for a meet-and-confer call tomorrow at 3:00 p.m. EDT. In advance of that call, we write to address several points:

1. Collection Efforts: We will be prepared to discuss your questions concerning document collection on tomorrow's call. We will also require further explanation from defendants as to their own collection efforts. Twitter filed suit nearly three weeks ago, yet your email acknowledges that defendants have not completed their collection of documents from the three email addresses that you have represented contain all emails within defendants' control that are potentially relevant to the litigation. Defendants' failure to timely collect these documents is impeding efforts to negotiate an email search protocol, as evidenced by defendants having taken more than 50 hours to produce even a partial hit report. This is not reasonable or consistent with the demands of expedited litigation: You have offered only two custodians, and we expect defendants to commit the resources necessary to promptly complete the collection of those individuals' email accounts. Please confirm that defendants are conducting a full collection of all emails from their custodians' three email accounts and let us know when you expect those collections to be completed.

When we speak, we will also plan to discuss each side's plans with respect to the review of non-email document sources.

2. Email Custodians: With regard to Twitter's custodians, based on our discussion on Thursday's meet-and-confer, our review of the pleadings, and the information defendants have provided regarding their areas of focus, we have supplemented our list of proposed email custodians. We have provided below a chart identifying those proposed custodians and describing their respective roles at the company and connection to the issues to be tried.

In addition, per defendants' request, Twitter will undertake to search Jack Dorsey's @Twitter.com emails over the date range that we ultimately negotiate for the email review. As we have explained, it is not at all clear that Twitter has possession, custody, or control of Mr. Dorsey's other sources of potentially relevant documents, but we can discuss that issue further tomorrow.

Finally, subject to our mounting concerns about the overall review burden for Twitter's email review alone, Twitter is willing to discuss undertaking a targeted search of the @Twitter.com emails that were assigned to the Concentrix QA and agents who worked on the mDAU sampling process for Q4 2021. We can explore this possibility more on the meet-and-confer.

3. Third Party Discovery: Because defendants have taken the position that they control only two custodians, Twitter is in the process of serving a number of document subpoenas on individuals and entities that assisted Mr. Musk in connection with the transaction.

In our prior communications, you have assured us that defendants will facilitate prompt cooperation with subpoenas issued to certain of these individuals, including Antonio Gracias. However, we are advised that your partner, Mr. Spiro, did not respond to a request from Twitter's counsel at Kobre & Kim to confirm your firm's agreement to accept service via email of the subpoena to Mr. Gracias. We are also advised that Mr. Spiro did not respond to Kobre & Kim's request to meet and confer on Monday, August 1 regarding that subpoena. Please confirm by 12:00 p.m. EDT tomorrow (July 31) that your firm will not be objecting to Kobre & Kim having served the Gracias subpoena on Mr. Spiro by e-mail, and please also advise as to your firm's availability for the requested meet-and-confer regarding that subpoena.



4. Data Scientists: We have repeatedly requested that defendants identify the data scientists (and/or data science firms) who were retained by or on behalf of Mr. Musk more than a month ago to analyze data that Mr. Musk received from Twitter. As we have previously informed you, Twitter plans to subpoena those individuals/entities. But defendants have prevented Twitter from doing so by refusing even to identify the data scientists on grounds of attorney-client privilege and work-product protection.

We do not agree with these privilege and work-product assertions, but even if they could be sustained, that would not permit defendants to conceal the names of the data scientists. Not surprisingly, Delaware law requires that any assertion of privilege be supported by the submission of a suitable log that identifies, among other details, “the parties to the communication.” *Mechel Bluestone, Inc. v. James C. Just. Companies, Inc.*, No. CV 9218-VCL, 2014 WL 7011195, at *4 (Del. Ch. Dec. 12, 2014). While the parties here evidently have a dispute as to whether the work performed by Mr. Musk’s data scientists was privileged, Twitter is entitled to ripen that dispute by subpoenaing the data scientists. Please identify them in advance of our call tomorrow, or supply authority that you claim supports your refusal to do so.

*** Proposed Twitter Email Custodians ***

#	Name and Title	Description
1	Parag Agrawal <i>Director; Chief Executive Officer</i>	Mr. Agrawal is a member of the Twitter Board and has served as Twitter’s Chief Executive Officer since November 2021. Mr. Agrawal was directly involved in all aspects of the transaction with Mr. Musk, including through direct communications with Mr. Musk both before and after the signing of the merger agreement.
2	Mimi Alemayehou <i>Director</i>	Ms. Alemayehou is an independent member of the Twitter Board and a member of the Audit Committee.
3	Emmy Anargyros <i>Technical Program Manager, HCOMP</i>	Ms. Anargyros manages the process by which vendor-contracted agents review a sample of Twitter’s mDAU to estimate the prevalence of false and spam accounts within mDAU. In this role, Ms. Anargyros herself reviews a subset of the accounts in the sample after prior review by contract agents and a Quality Analyst. Ms. Anargyros had substantial involvement in developing the training and guidance materials used by these agents in their review and participated in Twitter’s response to Mr. Musk’s post-signing information requests.
4	Krista Bessinger <i>Vice President, Investor Relations</i>	Ms. Bessinger leads Twitter’s investor relations function. In this role, Ms. Bessinger regularly interacts with Twitter’s investor base, including on matters disclosed in the company’s securities filings and with respect to the transaction with Mr. Musk.

5	Stacey Conti <i>Corporate Development, M&A Integration</i>	Ms. Conti is a member of Twitter's corporate development team. Ms. Conti played a project management role in Twitter's responses to Mr. Musk's post-signing information requests, including by coordinating Twitter's efforts to gather responsive information, participating in informational calls and meetings with Mr. Musk's representatives, and directly communicating with those representatives.
6	Todd Doughty <i>Senior Data Science Manager</i>	Mr. Doughty is a data scientist and leads the team responsible for calculating Twitter's reported mDAU. Mr. Doughty was personally involved in Twitter's responses to Mr. Musk's post-signing information requests, including by preparing custom data pulls requested by Mr. Musk.
7	Egon Durban <i>Director</i>	Mr. Durban is an independent member of the Twitter Board and a member of the Nominating & Governance Committee. Mr. Durban directly communicated with Mr. Musk prior to the signing of the merger agreement.
8	Sean Edgett <i>General Counsel</i>	Mr. Edgett has served as Twitter's General Counsel since February 2018. Mr. Edgett managed the legal aspects of the transaction with Mr. Musk and of Twitter's responses to Mr. Musk's post-signing information requests.
9	Julianna Hayes <i>Vice President, Corporate Finance</i>	Ms. Hayes leads Twitter's corporate finance function. Ms. Hayes was directly involved in Twitter's responses to Mr. Musk's post-signing information requests, including by reviewing information to be provided to Mr. Musk and participating in informational calls and meetings with Mr. Musk's representatives.
10	Robert Kaiden <i>Chief Accounting Officer</i>	Mr. Kaiden leads Twitter's accounting function. In this role, Mr. Kaiden is responsible for preparing the company's financial statements. Mr. Kaiden was also directly involved in Twitter's responses to Mr. Musk's post-signing information requests, including by participating in informational calls and meetings with Mr. Musk's representatives. During one such informational call, Mr. Kaiden provided Mr. Musk's representatives a detailed explanation of Twitter's review of a sample of mDAU to estimate the prevalence of false and spam accounts within mDAU.
11	Omid Kordestani <i>Director</i>	Mr. Kordestani is a member of the Twitter Board and the Chair of the Risk Committee.
12	Martha Lane Fox <i>Director</i>	Ms. Lane Fox is an independent member of the Twitter Board, the Chair of the Nominating & Governance and Compensation Committees, and a member of the Transactions Committee. Ms. Lane Fox directly communicated with Mr. Musk before the signing of the merger agreement.

13	Fei-Fei Li <i>Director</i>	Dr. Li is an independent member of the Twitter Board and a member of the Compensation and Risk Committees.
14	Patrick Pichette <i>Director</i>	Mr. Pichette is an independent member of the Twitter Board, the Chair of the Audit Committee and a member of the Risk and Transactions Committees.
15	David Rosenblatt <i>Director</i>	Mr. Rosenblatt is an independent member of the Twitter Board and a member of the Nominating & Governance and Compensation Committees.
16	Yoel Roth <i>Senior Director, Trust and Safety</i>	Mr. Roth leads Twitter's Safety and Integrity function. In this role, Mr. Roth oversees Twitter's efforts to define and combat impermissible conduct on the Twitter platform, such as the creation and operation of false and spam accounts. Mr. Roth was also directly involved in Twitter's responses to Mr. Musk's post-signing information requests.
17	Ned Segal <i>Chief Financial Officer</i>	Mr. Segal has served as Twitter's Chief Financial Officer since August 2017. In this role, Mr. Segal leads Twitter's finance, corporate development, global content, and developer and product partnerships. Mr. Segal was directly involved in all aspects of the transaction with Mr. Musk, including through direct communications with Mr. Musk and his representatives after the signing of the merger agreement and supervision of Twitter's responses to Mr. Musk's post-signing information requests.
18	Bret Taylor <i>Director (Chair)</i>	Mr. Taylor is Twitter's Independent Board Chair and the Chair of the Transactions Committee. Mr. Taylor directly communicated with Mr. Musk both before and after the signing of the merger agreement.
19		 participated in Twitter's responses to Mr. Musk's post-signing information requests, including by coordinating Twitter's efforts to gather requested information, participating in informational calls and meetings with Mr. Musk's representatives, and directly communicating with those representatives.

Regards,
Brad

From: Silpa Maruri <silpamaruri@quinnemanuel.com>

Sent: Friday, July 29, 2022 8:55 PM

To: Wilson, Bradley R. <BRWilson@wlrk.com>; Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP)

<edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBYavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slights, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

*** EXTERNAL EMAIL ***

Brad:

We write to clarify a few points below.

1. Collection Efforts: Based on our custodial interviews, Mr. Birchall uses an Excession email address and Mr. Musk uses his Tesla and SpaceX email address. Accordingly, we are searching these email accounts. We are still in the process of collecting documents that hit on search terms in the requested date range, and we reserve all rights to assert relevance and burden objections. We have no reason to believe that other entities that are not involved in this dispute nor implicated by Twitter's claims, such as the Boring Company or Neuralink, will contain relevant information. To assess whether a subpoena is necessary, we need to better understand what relevant information you think may be contained at these entities.

On this point, please be prepared on our next meet and confer to discuss with specificity Plaintiff's own collection efforts. Specifically, we would like to discuss Twitter's collection efforts for the outside directors Twitter proposed as custodians, including what e-mail addresses contain relevant information and whether there have been any collection issues or data loss in connection with the outside directors. Please also be prepared to confirm whether Twitter has (or had during the relevant period) possession, custody, or control over relevant documents for Jack Dorsey, who Defendants have requested be added as a custodian. Next, we expect Twitter will reciprocate as to the collection and production of relevant documents other than email, including but not limited to texts and other electronic messaging, Twitter DMs, hard copy files, local files, and files saved on personal computers, to the extent they exist. Please be prepared to discuss Twitter's collection efforts, including how it determined the location of relevant documents, and review process for non-email documents. Finally, you advised our team on yesterday's call that certain "outside agents" working under Emmy Anargyros to perform bot-related testing may have Twitter email addresses. Please confirm whether that is the case. If so, we request those individuals be added as custodians, as they will plainly contain relevant information and are in Twitter's possession, custody, or control.

With respect to data scientists, we have now explained the basis of our objection several times. Twitter, on the other hand, has failed to cite *any* authority requiring the disclosure of the identities of non-testifying consultants retained by counsel to advise. During our call yesterday, we specifically requested you provide such authority. You have yet to do so, and we ask that you do so to substantiate your claim once again. The basis for your positions should not be treated as a game of hide the ball. Your failure to provide such authority is unsurprising because it is evident that the reason you want the identities of such consultants is to subpoena them and pursue discovery of the work they performed at the request and on behalf of the attorneys who retained them, which is all privileged. Thus, your request for the names does not pertain to any relevant non-privileged information.

2. Search Terms: Attached please find our initial hit report. As our collection is ongoing, this does not reflect final figures, which we expect to be much larger. We are providing this report in the interest of pursuing good faith discussions, while reserving our right to object to your proposed search terms, including on both relevance and burden grounds. We look forward to discussing these issues on our next meet and confer.

While we certainly will need to discuss search terms further, your “surprise” about our questions regarding terms that clearly seek privileged information – e.g. legal terms like “best efforts” and “MAC” – seems feigned at best. On the terms we proposed that you questioned – e.g. Trump, Bangalore, New Delhi – we’re happy to expand on their relevance. Trump is relevant for the reasons we explained, namely that the name is often associated with spam, false accounts, and bots. As for the terms Bangalore and New Delhi, as my colleagues explained on our call, we recently learned Twitter filed a lawsuit against the government in Bangalore challenging orders blocking certain user accounts. That Twitter filed suit in response to blocking orders already issued strongly suggests an investigation(s) had been underway during the negotiation period and before the time the Merger Agreement was executed. Twitter’s failure to disclose such investigations constitutes a violation of Section 4.11 of the Merger Agreement. In addition, as you know, one of the main issues in this dispute is Twitter’s treatment of user accounts and moderation of same.

3. Custodians: While we are certainly seeking the types of custodians you list below, as explained during our call yesterday, that list is by no means exhaustive. We’re also seeking individuals involved in: (a) modeling the projected performance of the business; (b) management or Twitter’s user data; (c) communicating with advertisers regarding false and spam accounts on the platform; (d) government investigations into the company (e) determining the key performance indicators and metrics to track; (f) tracking and projecting these referenced key performance indicators and metrics; and (g) creating financial and operational projections. Please provide information regarding the individuals involved in these functions, as well as the information you committed to provide below, as soon as possible. As we noted yesterday, agreeing on custodians is a threshold issue that we hope to resolve quickly.

Regards,
Silpa

Silpa Maruri

Partner

Quinn Emanuel Urquhart & Sullivan, LLP

51 Madison Avenue, 22nd Floor
New York, NY 10010
212-849-7211 Direct
212-849-7000 Main Office Number
212-849-7100 FAX
silpamaruri@quinnemanuel.com
www.quinnemanuel.com

NOTICE: The information contained in this e-mail message is intended only for the personal and confidential use of the recipient(s) named above. This message may be an attorney-client communication and/or work product and as such is privileged and confidential. If the reader of this message is not the intended recipient or agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error and that any review, dissemination, distribution, or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by e-mail, and delete the original message.

From: Wilson, Bradley R. <BRWilson@wlrk.com>

Sent: Thursday, July 28, 2022 10:10 PM

To: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBYavitz@wlrk.com>;

Subject: RE: Twitter v. Musk

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

Thank you for this evening's meet-and-confer call. We write to summarize the parties' discussions on the call regarding collection, custodians, and search terms:

1. Facilitation of third-party cooperation: You explained that while you would not interfere with Ms. Salen's and Mr. O'Malley's compliance with subpoenas, you and your team are not familiar with them and therefore not able to facilitate their cooperation (as you have committed to do with respect to Messrs. Gracias and Swan).
2. Collection from Messrs. Musk and Birchall: We asked how you determined that Mr. Musk has only two email accounts with responsive information and that Mr. Birchall has only one. You explained that you made these determinations based on custodial interviews with Mr. Musk and Mr. Birchall. You also explained that you plan to process their cell phones. You said you would confirm whether Mr. Musk used more than one phone over the period plaintiff views as relevant (January 1 through July 8, 2022), although you were not aware of his having changed phones during that period. You also explained that Mr. Musk and Mr. Birchall are searching their files for relevant hard-copy information and that you would be collecting Twitter direct messages. On our next meet-and-confer call, we will want to better understand the process defendants are following to identify and collect potentially responsive documents other than emails, including hard-copy information, Twitter DMs, and communications sent on other instant messaging platforms.

You further explained, in response to our questions, that you have no reason to believe that either of Messrs. Musk or Birchall had auto-delete enabled on their phones, during the period plaintiff views as relevant, and that you were not presently aware of any data loss issues more broadly. Finally, you represented that we do not need to subpoena Mr. Birchall because you are collecting all relevant documents from his files.

3. Control and Collection from other persons and entities: You said you would get back to us on whether there are documents located at Excession that are not within defendants' possession, custody, or control. You likewise represented that, while Tesla and SpaceX are not under defendants' control, you are collecting Mr. Musk's Tesla and SpaceX email accounts. Please confirm that you are collecting these email accounts in their entirety over the relevant period and specify the period that your collection covers. You also said you would get back to us regarding whether The Boring Company and Neuralink are within defendants' possession, custody, or control. We look forward to hearing from you.

With respect to the data scientists/data science firms that have been accessing the data Twitter provided to your clients in response to their information requests under the Merger Agreement, you explained that you are asserting attorney-client privilege and work-product privilege over their work in connection with the transaction. Moreover, we understood you to say that you will not provide the names of these individuals/firms to us on the basis of those assertions. Given the expedited nature of this action and our desire to promptly subpoena these individuals/firms, we

reiterate our request that you identify them now (whether informally via email or in an interrogatory response). While we reserve all rights with respect to your claims of privilege, we do not understand the basis on which any applicable privilege would protect the names of these firms/individuals from discovery. If you will not reconsider your refusal to provide this basic information, we ask that you promptly explain your basis for such refusal.

4. Search Terms: While we addressed your questions regarding the relevance of certain of our search terms, you asked—and we agreed—that we table in-depth discussions with respect to each side’s counterproposals on search terms until you have had a chance to further digest the hit report we sent you earlier today and generate your own hit report with respect to Twitter’s counterproposal to your clients. You also explained that you intend to provide us with a hit report for Twitter’s counterproposal later this evening. We look forward to receiving it and discussing search terms further.

To the extent we began to discuss particular search terms, we were surprised that you inquired about the relevance of several of Twitter’s proposed terms that we would have thought non-controversial (e.g. Bret, “best efforts,” MAE). We were also unpersuaded by your stated reasons for including certain of the terms in defendants’ counterproposal (e.g. Trump, Bangalore, “New Delhi”). We further note that during the meet-and-confer, you gave no indication as to whether defendants are preparing to file counterclaims.

5. Custodians: You explained that you continue to require more information regarding Twitter’s operations and organizational structure in order to finalize the custodian list. We explained the role of several of the custodians we had initially proposed and how they relate to the issues to be tried in the case. We also sought to obtain a better understanding from you as to the specific kinds of information your clients believe they are entitled to so that our further discussions about the appropriate custodians can be more productive. You explained that defendants are seeking to identify custodians involved in (a) spam detection and prevention; (b) the mDAU audit process (i.e. the process that underlies Twitter’s SEC disclosures regarding its estimate of the number of spam/false accounts as a percentage of mDAU); (c) the relationship between mDAU and advertising revenues; and (d) the Investor Relations function to the extent its work pertains to the aforementioned SEC disclosures. You also explained that to the extent you were interested in identifying custodians from Twitter’s Security, Engineering, Products/Revenue, Investor Relations, Finance/Accounting, and Legal departments (which are the general categories/departments referenced in the introductory paragraph of your counterproposal yesterday), it was in connection with these more specific enumerated topics.

As a next step, we committed to make a further counterproposal on custodians that takes account of the additional information you provided. We also agreed to either provide you with a supplemental “org chart” (similar to the document we created with Twitter’s assistance and produced this morning), or come to our next meet-and-confer prepared to explain our proposed custodians’ roles and how they tie to the topics you have said you are focused on. You also explained that there are several custodians from your counterproposal whom defendants are particularly interested in—namely, Jack Dorsey; Kayvon Beykpour; [REDACTED]; [REDACTED]; and [REDACTED]. We reserved all rights as to these individuals and the others you have asked Twitter to add as custodians.

We will endeavor to provide a counterproposal regarding custodians as promptly as possible. We explained that we are actively reviewing documents from certain non-controversial custodians while we continue to negotiate the search parameters, for which you expressed appreciation.

Regards,
Brad

From: Wilson, Bradley R.

Sent: Thursday, July 28, 2022 3:32 PM

To: 'Kathryn Bonacorsi' <kathrynbonacorsi@quinnemanuel.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBVavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slights, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

Counsel,

Defendants' refusal to provide a hit report is unreasonable. *See, e.g., International, Inc. v. Wellstat Therapeutics Corp.*, No. 12562-VCL (Del. Ch. Oct. 4, 2016) (TRANSCRIPT) at 42 ("If somebody asks you for a hit report, you give it to them. You give it to them because discovery is supposed to be a cooperative enterprise...."). To the extent you have substantive questions about any of Twitter's proposed search terms, we will be prepared to address them on the meet-and-confer, but that provides no basis for you to withhold the customary information we've requested.

If there is a reason why defendants cannot provide a "reliable hit report" at this time, please tell us what it is. In particular, please confirm that defendants have collected the full email accounts for the three email addresses you have identified to date (two for Musk and one for Birchall), and, if so, please specify the date range(s) for those collections. We ask that you provide this information prior to our meet-and-confer.

Notwithstanding your refusal to reciprocate, we attach a hit report pertaining to defendants' counterproposal with respect to Twitter's email review. This report covers only some of the 60 individuals defendants proposed as custodians—namely, the 8 management custodians included in our initial proposal, plus 6 others whose company emails we have been able to upload to our review platform to date. This report covers the January 1 through July 8, 2022 date range reflected in Twitter's RFPs to defendants.

As you will see, even this partial search yielded more than 246,000 documents, representing more than 43% of the documents in the search universe. We find these results unsurprising given the breadth of defendants' proposed terms (e.g. project*, valu*) and the many irrelevant subjects that they address (e.g. Trump, Bangalore).

Regards,
Brad

From: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>
Sent: Thursday, July 28, 2022 1:37 PM
To: Wilson, Bradley R. <BRWilson@wlrk.com>
Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBYavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slight, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>
Subject: RE: Twitter v. Musk

*** EXTERNAL EMAIL ***

Brad:

We are available at 4pm EST to discuss the organizational information that Twitter just produced and custodians more generally, which is a prerequisite to a reliable hit report. In particular, we have questions about the bare bones visuals you provided us. On our end, given where we stand in the collection process, generating a hit report on Twitter's proposed search terms does not make sense, particularly when we have substantive questions about many of your proposed search terms. We'll circulate a dial in for 4pm shortly.

Thanks,
Kate

From: Wilson, Bradley R. <BRWilson@wlrk.com>
Sent: Thursday, July 28, 2022 10:46 AM
To: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>
Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBYavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slight, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>
Subject: RE: Twitter v. Musk

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

We are producing shortly the chart that Twitter generated to reflect the organizational structure for Parag Agrawal, his direct reports, and their direct reports. We will be prepared to discuss this document, and the subject of appropriate custodians more generally, when we meet and confer.

As to the meet-and-confer, we are not available at 3:00 p.m. EDT, but we are available at 4:00 p.m. EDT. Please let us know if that time works for defendants. We intend to share in advance of our discussion a term-by-term hit report (including unique hit counts) relating to the search proposal that defendants provided yesterday. Please confirm that defendants will do the same.

Regards,
Brad

From: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>

Sent: Thursday, July 28, 2022 7:04 AM

To: Wilson, Bradley R. <BRWilson@wlrk.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBVavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slights, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

*** EXTERNAL EMAIL ***

Brad:

Are you available to discuss search terms at 3pm EST today? And when can we expect to receive the charts you're working on with Twitter?

Thanks,
Kate

From: Wilson, Bradley R. <BRWilson@wlrk.com>

Sent: Wednesday, July 27, 2022 5:01 PM

To: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP)

<kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP)
<ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod,
Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBVavitz@wlrk.com>;
Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slights, Joseph R.
(Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC)
<bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

We are attaching Twitter's initial counterproposal for search terms to be run against the emails of Messrs. Musk and Birchall. Twitter reserves the right to revise/supplement its proposal based on our ongoing meet-and-confer discussions, and as further discovery warrants. We would be happy to meet and confer about this counterproposal tomorrow after defendants have provided a suitable hit report pertaining to it.

We will also review defendants' counterproposal with respect to Twitter's email review and revert with our availability for a meet-and-confer tomorrow. In the meantime, we expect to generate a hit report pertaining to defendants' counterproposal and will share that report as soon as we can.

Finally, following our discussion on last night's call, we have undertaken further inquiry into the existence of "org charts" documenting Twitter's internal employment structure. While it remains our understanding that Twitter does not maintain such documents in the ordinary course, we have determined that it is possible to generate documents that reflect similar information using the company's HR software. We are working with Twitter to prepare charts of this kind for the pertinent segments of the company and will provide those charts as soon as we can.

Regards,
Brad

From: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>

Sent: Wednesday, July 27, 2022 11:06 AM

To: Wilson, Bradley R. <BRWilson@wlrk.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBVavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slights, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

*** EXTERNAL EMAIL ***

Brad:

We write to clarify and respond to some of the substantive points you raise below:

1. Defendants' Proposed Custodian: You asked why Bob Swan, Antonio Gracias, Kristina Salen, and Patrick O'Malley were not included as custodians. We informed you that none of their documents were under the possession, custody, or control of Defendants. We stated that you of course could subpoena these individuals. We confirmed that we would not do anything to prevent or interfere with their timely responses to third party subpoenas. With respect to Mr. Swan and Mr. Gracias, we will facilitate prompt cooperation with any reasonably tailored subpoenaed. Regarding the data scientists, we do not believe that your request for this information is appropriate. Nor do we have any obligation to provide this information. To the contrary, as these individuals are non-testifying consultants of Defendants, any work or analyses they have performed for Defendants at the requests of counsel is privileged. As noted during the call, we will be identifying relevant individuals in response to Twitter's interrogatories, which we expect to serve in the next few days.
2. Defendants Date Range/Search Terms: As noted during our call, the hit count based on our current collection for our current proposal is 2,474. This figure is based on the small set of documents we already have collected and uploaded to the database that fall within our proposed date range. The hit count will therefore increase as we continue to collect and upload. As noted during the call, we are of course willing to provide updated hit counts throughout this process.
3. Emails: We confirm that the three email addresses you listed below are the only email addresses that contain responsive information for Mr. Birchall and Mr. Musk.
4. Other document sources: As noted during the call, we are still collecting responsive documents from Mr. Birchall and Mr. Musk. At this time, it is our understanding that there no responsive documents saved on personal laptops or in cloud-based platforms or in hardcopy form; however, this may be subject to change as our collection is ongoing.
5. Twitter's Proposed Custodians: We explained that given the fact Twitter is a massive organization, it is neither efficient nor fair for Defendants to guess who within the organization will have relevant documents, particularly on such a highly expedited timeline to trial. The difficulties of proceeding in this manner are compounded by the fact that (1) publicly available information on the roles and hierarchy within Twitter is ambiguous at best and (2) the high turnover rate of employees within Twitter makes it nearly impossible to identify who is (or was) in relevant roles. That it is why we requested org charts, which you did not dispute are relevant and would have to be produced if they existed. We would appreciate your confirmation on this point by 5pm EST today. We also requested historical org charts and any other documents – perhaps within the HR Department – that reflect reporting lines within Twitter and company structure and hierarchy. While we will provide a counterproposal of custodians and groups we believe have information relevant to this dispute, without more information about what groups and departments *even exist* within Twitter, our counterproposal will not be complete. Twitter's lack of transparency is highly prejudicial where the parties have such a short window of time to complete discovery (by Twitter's design). Given our willingness to work with third parties Mr. Swan and Mr. Gracias to ensure prompt compliance with subpoenas, we expect Twitter to promptly produce the straightforward custodial information requested herein, as cooperation by both parties is necessary under the circumstances.
6. We have no objection to the initial 12 custodians Twitter has proposed, so long as you understanding we are reserving our rights to request more custodians.

We will follow up at 5pm EST today with our counterproposal. Please let us know whether you are available to discuss tomorrow at 9am EST.

Thanks,
Kate

From: Wilson, Bradley R. <BRWilson@wlrk.com>

Sent: Tuesday, July 26, 2022 11:01 PM

To: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBAYavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slights, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

We write to summarize the parties' discussions on this evening's meet-and-confer call:

Defendants' Initial Proposed Search Protocol

1. **Custodians:** You represented that the documents of Bob Swan, Antonio Gracias, Kristina Salen, and Patrick O'Malley are not within defendants' possession, custody, or control, and explained that you did not include these advisors as custodians in defendants' proposal for that reason. In light of your taking that position, we asked that defendants commit to assist Twitter in seeking the timely production of documents from these individuals in response to third-party subpoenas. You said you would get back to us, but indicated that you are generally amenable to doing so.

You also advised that the documents of the data scientists that defendants engaged to assist them in evaluating the data that Twitter provided pursuant to defendants' information requests are likewise not within defendants' possession, custody, or control. As such, we asked that you provide the names of those data scientists promptly so that we can prepare third-party subpoenas and serve them as soon as possible, consistent with the expedited schedule. Please let us know whether defendants will provide this information by tomorrow.

2. **Date Range / Search Terms:** You advised that your proposed date range for your initial proposal was April 2022 through July 8, 2022 because you believe that is the relevant time period. You also explained that you omitted search terms keyed to the subject matter of certain issues addressed in Twitter's complaint and pending document requests (e.g. with respect to Twitter's claim that defendants breached the merger agreement by failing to devote their reasonable best efforts to consummating the merger) because, in your view,

these are not relevant topics. We disagree on both points, as we discussed, and will mark up your proposal to address our concerns. We can discuss these issues in more detail on our next meet-and-confer call.

To facilitate our mark-up of your proposal, we ask that you provide as soon as possible—either tonight or early tomorrow morning—with the hit count associated with the initial proposal you sent earlier today, consistent with our sharing that figure with you on the call in connection with Twitter’s initial proposal (in Twitter’s case, more than 65,000 documents, including families, for the proposed custodians with Twitter email addresses). Please confirm that you will provide this information.

3. Emails: You explained that, although you are still in the process of collecting documents and working with your clients to understand their files and the sources of potentially responsive documents, you intend to search at a minimum Mr. Musk’s Tesla email address as well as his SpaceX email address, along with Mr. Birchall’s Excession email address. You said you would get back to us regarding whether there are any other email accounts that could contain relevant information.
4. Text Messages: You stated that you intend to collect text messages. We agreed to revisit a protocol for searching and reviewing text messages on a subsequent call.
5. Other document sources: You confirmed that your proposed search terms were intended to cover email searches only. You committed to get back to us on whether relevant documents may exist on your custodians’ personal computers and/or in cloud-based platforms. You explained that you have no specific objection to collecting and producing responsive Twitter direct messages, but advised that you had not specifically considered the matter as of yet. We look forward to discussing this issue on our next call.

In addition to these sources, please confirm that you also intend to collect and review potentially responsive hard-copy documents from your custodians.

Plaintiff’s Initial Proposed Search Protocol

1. Custodians / Org Charts: You requested that we send you org charts in order to assist you in identifying potential custodians. As we explained, we do not believe that Twitter creates org charts in the ordinary course of its business, but we agreed to confirm that with our client. As an alternative approach, and in the interest of advancing our discussions regarding Twitter’s search protocol, we requested that you identify specific groups/functions within Twitter from which you are seeking documents, and you said that you would be willing to provide that information. Please do so promptly. Twitter of course reserves the right to decline to add particular custodians that you might request on grounds of relevance, proportionality, overall burden, etc.

In addition, please let us know if you have any objection to the inclusion of the 12 custodians we have already proposed, so that we may proceed with reviewing their documents in an orderly and efficient manner.

2. Hit reports: Twitter and defendants agreed that each side is prepared to exchange customary hit reports as we continue to negotiate search terms and protocols.

3. Exchange of counterproposals: You proposed that the parties exchange counterproposals at 5:00 p.m. EDT tomorrow. We agree to do so.

Regards,
Brad

From: Wilson, Bradley R.

Sent: Tuesday, July 26, 2022 1:14 PM

To: 'Kathryn Bonacorsi' <kathrynbonacorsi@quinnemanuel.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBVavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slights, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

We are available at 6:30 and will send a dial-in.

From: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>

Sent: Tuesday, July 26, 2022 12:44 PM

To: Wilson, Bradley R. <BRWilson@wlrk.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBVavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slights, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

*** EXTERNAL EMAIL ***

Brad:

We're no longer available at that time. Are you available at 6:30pm EST?

Thanks,
Kate

From: Wilson, Bradley R. <BRWilson@wlrk.com>

Sent: Tuesday, July 26, 2022 11:59 AM

To: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBAYavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slights, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; Sorrels, Bradley D. (Wilson Sonsini Goodrich & Rosati, PC) <bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

We attach Twitter's initial proposed search protocol.

We are available to meet and confer at 4:30 p.m. EDT. If that time still works for defendants, we will send a dial-in.

Regards,
Brad

From: Wilson, Bradley R.

Sent: Tuesday, July 26, 2022 10:58 AM

To: 'Kathryn Bonacorsi' <kathrynbonacorsi@quinnemanuel.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Yavitz, Noah B. <NBAYavitz@wlrk.com>; Goodman, Adam L. <ALGoodman@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>; Slights, Joseph R. (Wilson Sonsini Goodrich & Rosati, PC) <jslights@wsgr.com>; 'Sorrels, Brad' <bsorrels@wsgr.com>

Subject: RE: Twitter v. Musk

Counsel,

We likewise plan to exchange initial proposed search protocols at 12 p.m. EDT.

We are checking calendars on our side and will revert soon with our availability for the meet-and-confer you have requested.

Regards,
Brad

From: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>
Sent: Monday, July 25, 2022 10:02 PM
To: Wilson, Bradley R. <BRWilson@wlrk.com>
Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SEddy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>
Subject: RE: Twitter v. Musk

*** EXTERNAL EMAIL ***

Brad:

I am confirming that we will exchange initial search terms and custodians tomorrow at noon EST. Please let us know when you are available for a meet and confer to discuss after 4pm ET.

Thanks,
Kate

From: Wilson, Bradley R. <BRWilson@wlrk.com>
Sent: Sunday, July 24, 2022 11:36 PM
To: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>
Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SEddy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>
Subject: RE: Twitter v. Musk

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

We write in response to your email from earlier today.

To begin, you have mischaracterized Twitter's position respecting the dates for trial. We have not asked defendants to commit to completing trial in a week (although we believe that a five-day trial will be more than sufficient in this case). Rather, we have simply said that if defendants decline to make that commitment, we will not agree to support an October 17 trial start, as we had offered to do as a gesture of goodwill if the Court is available to hold trial either the week of October 10 or October 17.

With regard to the issues addressed in the second and third paragraphs of your message (which address, respectively, the date and time for an exchange of initial proposed search protocols and the deadline for defendants to file their Answer), Twitter stands by the positions it has previously conveyed for the reasons already articulated.

In respect of the pre-trial schedule, we are attaching a slightly revised proposal that includes bracketed interim deadlines that would apply if the trial start date is October 10. (This version also clarifies that August 28 is the substantial completion deadline for all document productions, which had been our intention.) Once the Court confirms the trial dates, we will be prepared to meet and confer promptly in an effort to finalize the interim dates. We have not included defendants' proposed August 1 deadline for the production of "material large data sets." We do not believe defendants' attempt to impose a one-way discovery deadline for a particular subset of discovery sought from plaintiff—before Twitter has even served its responses and objections—is reasonable or consistent with the discovery rules and customary practice in expedited cases. Nor do we think it appropriate for defendants to effectively seek to use a scheduling order as a substitute for an order requiring plaintiff to provide particular discovery. We intend to serve responses and objections to your discovery, promptly meet and confer about any disputed discovery requests, and produce agreed discovery on a rolling and expedited basis and in accordance with reciprocal deadlines for responding to discovery requests.

Finally, the conditions you attached to your counter-proposal regarding an exchange of initial document productions are unreasonable. Here again, defendants are attempting to impose an artificial deadline that would obligate Twitter—and Twitter alone—to provide substantial document discovery before defendants have answered the Complaint (or disclosed whether they intend to assert counterclaims) and before the parties have served responses and objections and conducted the meet-and-confer process.

Regards,
Brad

From: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>

Sent: Sunday, July 24, 2022 3:47 PM

To: Wilson, Bradley R. <BRWilson@wlrk.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>

Subject: RE: Twitter v. Musk

*** EXTERNAL EMAIL ***

Brad:

In response to the points you raise below:

First, your continued insistence that Defendants commit to complete trial in a week – *three months in advance* – is simply not appropriate. Of course, Defendants aim to present their case at trial in the most efficient way possible. However, given the magnitude of this case, both in terms of dollars at stake and importance to Defendants, we cannot agree to limit our presentation in any way. We trust you can understand this.

Second, your refusal to “accelerate” the exchange of proposed search protocols by a mere 19 hours when your client is the one who sought expedition of this case in the first place makes no sense. You fail to provide any reason why you cannot conduct the exchange earlier. Thus this appears to be yet another attempt by Twitter to stall this case. We ask you to reconsider and let us know your final position by 8am EST tomorrow.

Third, we have already agreed to move up the deadline for filing the answer *twice*. We cannot commit to filing it any earlier than that. It must be noted that your attempt to use our filing of the answer as a justification for Twitter’s foot dragging on discovery is transparent pretext, and should it continue we are prepared to raise it with the Court .

Fourth, regarding the schedule, we have given you “specific comments” on your proposed schedule below, most importantly that your proposal of August 28 as the deadline for substantial completion of document production is untenable and unreasonable. You have failed to provide any reason whatsoever why you cannot meet our proposed deadline of August 1 to substantially complete production of material large data sets. This appears to be yet another attempt to prevent Defendants from building their case on the highly expedited timeline that Twitter requested. Please let us know by 8am EST tomorrow if you will agree to our proposed deadline.

Finally, your suggestion that we are doing anything outside of the norm in this litigation is not well taken. We are merely trying to move this case forward on the highly expedited timeline that Twitter requested. That is why we have requested that Twitter immediately produce the non-objectionable categories of documents we listed below, including documents/data responsive to RFP 1 in Defendants’ second set of RFPs. During last week’s hearing, Mr. Savitt represented to the Court that “Twitter will be in a position to make everything that’s available, available.” Instead of honoring that by agreeing to immediately produce relevant documents (or explain why you cannot do so), you try to turn the tables on us and demand we make a “reciprocal” production. Despite the fact that you just served document requests Friday night, we will undertake our best efforts to make an initial production by the end of this coming week on the condition that Twitter agrees to (1) produce everything it concedes is relevant immediately, (2) provide an explanation as to why the other categories we listed below are not relevant, and (3) our August 1 proposed deadline to substantially complete production of material large data sets. We request your final position on this by 8am EST tomorrow.

Thanks,
Kate

From: Wilson, Bradley R. <BRWilson@wlrk.com>

Sent: Saturday, July 23, 2022 8:00 PM

To: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>

Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKeddy@wlrk.com>; McLeod,

Subject: RE: Twitter v. Musk

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

We write in response to your most recent email:

First, in light of Defendants' unwillingness to commit to complete the trial on or before October 21 in the event that trial commences on October 17, we do not agree to support an October 17 start date. We will await the Court's guidance regarding the dates for trial, in accordance with the instructions conveyed to the parties on this week's call to Chambers.

Second, Twitter remains willing to exchange initial proposed search protocols on Tuesday at 12:00 p.m. EDT, which is less than six days after Defendants served the document requests to which the initial search protocol will pertain. Your proposal to accelerate the time for this exchange by 19 hours is unreasonable.

Third, as we have repeatedly explained, Defendants' unreasonable delay in serving their responsive pleading is prejudicing Twitter's ability to assess the appropriate scope of discovery in this expedited case and prepare for the production of responsive documents. Your refusal to even say whether Defendants will be asserting counterclaims is substantially compounding this prejudice. We continue to believe that Defendants should file their Answer immediately, and Twitter reserves all rights in that regard.

Fourth, and most fundamentally, we continue to object to Defendants' efforts to conduct one-way discovery in this case in a disorderly fashion that contravenes customary practice in this Court. The next step in an orderly discovery program is the entry of a case schedule, and we accordingly ask that you provide specific comments on the proposed schedule that we sent you yesterday afternoon (which, we wish to note, already resolves several of the issues you mentioned in your email last night). We can make ourselves available tomorrow to discuss your further proposed revisions if that would be useful.

Twitter, meanwhile, is focused on preparing to produce responsive and non-privileged material on an expedited basis. Twitter will serve formal responses and objections to your clients' pending document requests in accordance with the timeline agreed by the parties, and we will make ourselves available to meet and confer about those requests promptly thereafter. If there are disputes about the proper scope of discovery, Twitter is prepared to present those issues to the Court for resolution in accordance with an orderly but prompt schedule. This procedure has been successfully followed over and over again in expedited cases in this Court, and we believe the Court will expect the parties to follow it here.

Twitter is also prepared to agree to make an initial production of responsive documents—consisting of some of the documents you have identified below, from categories that Twitter agrees are responsive—by the end of the upcoming week. Twitter's willingness to do so is contingent upon Defendants providing a reciprocal commitment to make an initial production on the same timeline. Please let us know if Defendants will make that commitment.

Regards,
Brad

From: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>
Sent: Friday, July 22, 2022 9:27 PM
To: Wilson, Bradley R. <BRWilson@wlrk.com>
Cc: Emily Kapur <emilykapur@quinnemanuel.com>; Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>
Subject: Re: Twitter v. Musk

*** EXTERNAL EMAIL ***

Brad:

Again, we write to respond only to the substantive points you make below:

First, we appreciate your willingness to start trial on October 17 subject to the Court's availability. However, we do not agree to any of the conditions you are trying to impose.

Second, given that time remains of the essence, we expect that you will provide your proposed search protocols on Monday, July 25, at 5:00 PM ET. We are prepared to do the same.

Third, while we largely stand on our position as articulated below regarding the Answer, we will agree to file the Answer on July 28.

Fourth, we disagree with numerous of your revisions to our proposed schedule, including your proposed deadline of August 28 for substantial completion of document production. As this date is just ten days before opening expert reports are due – in a case where experts are crucial – your proposal is an obvious attempt to squeeze us, and prevent our experts from engaging, for the benefit of the Court, in a meaningful and fair analysis of the data and documents you provide. Instead, we expect the production deadline to be August 1 for material large data sets in response to initial requests. In addition, we also expect the schedule to include deadlines for (1) the identification of rebuttal expert witnesses and general subject matter of expert testimony; (2) parties to identify any potential trial witnesses not previously deposed or scheduled for

deposition and make such witnesses available for deposition; and (3) filing of motions in *limine* (if any).

Finally, your suggestion that discovery here will be "bilateral" is, to put it bluntly, absurd. Twitter – as the target company in this transaction – holds substantially all of the information that will be at issue in this litigation. It is patently unreasonable for Twitter, without any basis, to force Defendants to wait for Twitter to decide to produce documents central to this case, prejudicing Defendants' defense. This appears to be precisely what is happening here. To the extent you are suggesting that we are withholding reciprocal discovery from our clients, we simply note that you have not even served discovery requests. And furthermore, we are confused by your refusal to produce the categories of obviously non-objectionable and relevant material on a rolling basis. You even admit that some of the categories are relevant. While we disagree that any of the categories we listed below are irrelevant, you fail to identify which ones you refer to or why they are irrelevant. What's more, you already have stated that some of these categories have been ready to produce since *last week*. As we've reiterated numerous times, we are trying to work with you on the highly expedited schedule that *you requested*. You are now unjustifiably dragging your feet.

Please let us know by 5pm ET tomorrow whether you will agree to produce everything that you concede is relevant immediately, and provide an explanation as to why the other categories listed below are not relevant. We have now been debating the schedule for days, in the context of a case where less than ninety days are left until trial. Thus, in the absence of your agreement to (i) immediately produce all relevant documents; (ii) provide an explanation as to why the remainder are not relevant; (iii) your agreement to our document production deadline, we will seek relief.

Regards,
Kate

On Jul 22, 2022, at 4:24 PM, Wilson, Bradley R. <BRWilson@wlrk.com> wrote:

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

We continue to have concerns that Defendants are taking a one-sided view regarding the parties' obligations in expedited proceedings. For example, Defendants seek to defer the filing of their Answer (and potential Counterclaims) for another week, but demand that Twitter immediately negotiate search protocols and take various other actions. We think it is clear that Twitter cannot agree to a search protocol before it even knows what contentions/defenses Defendants raise in their Answer (and potential

Counterclaims). Moreover, Twitter will want to address in its written discovery requests the contentions/defenses that Defendants raise in the Answer (and potential Counterclaims). That is why the proposed Scheduling Order that Twitter submitted to the Court last Tuesday expressly provided that the first event in the schedule would be Defendants' filing an Answer to the Complaint. Notwithstanding Defendants' delay in responding to the Complaint, Twitter remains committed to moving this case forward consistent with the Court's ruling. Below are brief responses to the specific points raised in your email.

First, with respect to the trial date, as noted on the call the other night and in my prior email, our understanding is the Court will get back to the parties regarding its availability for trial the weeks of October 10 and October 17. Further, our understanding is that both sides are available both of those weeks; to the extent we were to call the Court, rather than wait to hear back from Chambers, we should advise the Court that the parties are available both weeks that were provided and ask for any further information the Court can provide regarding its availability during those weeks. To the extent the Court has sufficient availability the week of October 17 such that the trial could be completed by the end of that week, we can reserve that week with the Court for trial. If the Court does not have sufficient availability that week, or offers the week of October 10 only, then we need to reserve the week of October 10 for trial. Finally, our willingness to agree to trial in the week of October 17 (as opposed to the week of October 10) is conditioned on your commitment to conclude the trial that week and to not seek additional trial days. Please let us know if that is acceptable and if Defendants would like to organize a call to the Court on these matters.

Second, as noted above, Defendants' demand that Twitter negotiate search terms and custodians before Defendants respond to the Complaint makes no sense and is contrary to the normal process for litigation. Despite Defendants' delay in filing their responsive pleading in this expedited case, Twitter expects to be able to send an *initial* proposed search protocol to Defendants as part of a mutual exchange on Tuesday, July 26, at 12pm ET. For obvious reasons, however, the parties cannot finalize any search protocol until after Defendants file their Answer (and potential Counterclaims).

Third, we continue to believe that Defendants should file their Answer before the July 29 date you now propose, and Defendants also should disclose immediately if they intend to assert Counterclaims. As explained above, every day that Defendants delay in filing those pleadings further delays the parties' ability to move forward with discovery, including negotiating a search protocol.

Fourth, we have sent you the proposed final version of the Confidentiality Order. We will file it as soon as we have your sign-off.

Fifth, enclosed is Twitter's mark-up of the draft Scheduling Order that you provided last night. We are available to discuss, but believe it may be more productive to do so after the Court advises the parties of the specific trial dates.

With regard to the second to last paragraph of your email, once again Defendants purport to impose asymmetrical and arbitrary discovery demands on Plaintiff, while refusing to file a responsive pleading within a reasonable time in this case and not themselves offering to "immediately" produce "undoubtedly relevant [documents] that [defendants] know[]

[they] must produce.” Discovery is a cooperative endeavor, and while Defendants have made numerous demands on Plaintiff, they have not offered to reciprocate. Moreover, although Twitter agrees that some of the categories of documents you list are relevant, and to produce such documents in accordance with the schedule agreed upon by the parties or ordered by the Court, a number of the categories are not relevant to the issues in the case and are not the proper subjects of discovery.

We of course are available to meet and confer regarding any of these matters.

Regards,
Brad

From: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>
Sent: Thursday, July 21, 2022 11:29 PM
To: Wilson, Bradley R. <BRWilson@wlrk.com>; Emily Kapur <emilykapur@quinnemanuel.com>
Cc: Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>
Subject: RE: Twitter v. Musk

*** EXTERNAL EMAIL ***

Brad:

We write in response to the substantive points you raise below:

First, as to trial, we appreciate your agreement to an October 17 trial date. Please let us know what time you are available tomorrow morning so we can call the Court to advise that both parties are available then.

Second, while we accept your proposal regarding the timing of Twitter’s responses and objections to Defendants’ pending document requests, we reject your proposal that we should wait until the answer is filed to discuss a “reasonable search protocol.” There is simply no reason we cannot begin these discussions now, as we proposed yesterday, and it is in fact necessary to begin these discussions now given the compressed schedule (that Twitter requested). Indeed, there is no reason why custodians and search terms cannot be discussed now. Please provide your proposed “search protocol” by tomorrow at 5pm; in the absence of receiving your proposal, we will seek relief from the Court.

Third, Defendants are agreeable to an earlier deadline for filing their answer and are committed to filing by July 29, at which time you will know whether Defendants are asserting counterclaims.

Fourth, Defendants are in agreement regarding the Confidentiality Order and request that you file the order promptly tomorrow morning.

Fifth, attached please find our mark-up of Twitter's proposed schedule, as requested. We are available to meet and confer tomorrow to discuss this further.

In addition to the above, it is noteworthy that there are certain documents that are undoubtedly relevant that Twitter knows it must produce, including but not limited to: board meeting minutes and related materials regarding the Merger; all drafts of the Merger Agreement exchanged; executive level org charts and org charts for Twitter's growth team, metrics task force, product management, investor relations, revenue team, engineering team, trust & safety, safety & integrity, and cybersecurity; documents cited, quoted, or referenced in the Complaint and Motion to Expedite; manuals and policies regarding mDAU, ad sales, advertising metrics, growth metrics, suspension rules, machine learning, and AI; documents responsive to RFP 1 in Defendants' Second Requests for the Production of Documents; all documents, materials and/or data you said you were ready to produce in your July 15 letter; all OC consent requests and responses; all items provided in the data room; all exchanged drafts of the Credit Agreement, Limited Guarantee, and Debt Commitment Letter. Twitter should commence immediate rolling production of these documents without delay. Please confirm that you will agree to do so immediately, and start these rolling productions tomorrow.

Please confirm your agreement to all of the above by no later than 5pm tomorrow, otherwise we intend to raise these issues with the Court.

Thanks,
Kate

From: Wilson, Bradley R. <BRWilson@wlrk.com>
Sent: Thursday, July 21, 2022 8:54 PM
To: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>; Emily Kapur <emilykapur@quinnemanuel.com>
Cc: Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>
Subject: RE: Twitter v. Musk

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

We reject your summary of last night's call, which references remarks that were never made and omits other important aspects of the discussion. Because we do not believe that engaging in a tit-for-tat exchange on the subject would be productive, we decline to do so.

We write instead to address a few substantive points:

First, as we discussed last night, Twitter believes that a prompt trial is essential for all of the reasons it has previously articulated, and would accordingly prefer to

begin on October 10. Nevertheless, with the objective of removing points of contention, Twitter will not oppose commencing trial on October 17, if that remains your preference and is agreeable to the Court, provided that the Court has sufficient availability such that the trial could be completed by the end of that week. Once the Court shares its available trial dates with the parties, we will make ourselves available right away to determine the specific days for trial.

Second, as we have explained, Twitter is committed to move quickly to bring this case to trial in accordance with the Court's Order. We note in that regard, however, that expedition works both ways, and your proposed approach—under which Twitter would be obligated to comply with arbitrary and non-orderly deadlines dictated by Defendants, even before the parties have agreed to a schedule let alone a scheduling order, and without Defendants providing any corresponding commitments as to the timing of their own actions—is not reasonable. Most notably, Defendants have proposed to file their Answer on August 3, which is after the 20-day deadline that would apply under the Court's rules in a non-expedited case. To address this issue, we propose the following: (a) Twitter will serve responses and objections to the pending document requests within two business days after Defendants serve their Answer, and will make itself available to meet and confer about the requests and a reasonable search protocol for identifying responsive documents promptly thereafter; and (b) the parties will agree to a presumptive deadline, applicable to both sides, for serving responses and objections to other document requests.

Third, in addition to reiterating our request that Defendants serve their Answer as promptly as possible, we ask that you please let us know immediately whether Defendants intend to assert Counterclaims. If that is indeed your intention, the need for Defendants to file their responsive pleading is even more urgent.

Fourth, Twitter accepts your proposed revision to paragraph 20(c) of the Confidentiality Order. However, Twitter cannot agree to your proposed insertion of paragraph 6(a). This is not the typical circumstance in which the primary defendant is a large organization, and we are concerned that agreeing to your proposed language would effectively nullify the Highly Confidential tier. Twitter does not intend to over-designate discovery material as Highly Confidential in this case, and we believe that we can address this issue on a document-by-document basis when the time comes. If you would like to meet and confer on this issue, we can make ourselves available tomorrow to do so.

Fifth, we continue to await Defendants' mark-up of our proposed pre-trial schedule. Please send it as soon as you can tonight.

Finally, with regard to the matter of your clients' access to the Firehose and Enterprise API feeds, we are advised that your understanding is not correct. Regardless, we have confirmed that your clients will continue to have access to these feeds through tomorrow and into the future. This continued access is being provided without prejudice to any of Twitter's rights. Your clients have been provided this access pursuant to the provisions of the Merger Agreement that govern your clients' information rights in connection with the Merger and not in the context of this litigation.

Regards,
Brad

From: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>
Sent: Thursday, July 21, 2022 3:47 PM
To: Wilson, Bradley R. <BRWilson@wlrk.com>; Emily Kapur <emilykapur@quinnemanuel.com>
Cc: Rossman, Andrew J. (Quinn Emanuel Urquhart & Sullivan LLP) <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Kercher, Christopher D. (Quinn Emanuel Urquhart & Sullivan LLP) <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>
Subject: RE: Twitter v. Musk

*** EXTERNAL EMAIL ***

Counsel,

Notwithstanding Defendants' First RFP # 1, reattached here, we understand the user interface for the Firehose and Enterprise API feeds indicates that Defendants' access to those feeds will terminate tomorrow. Please immediately confirm that Defendants' access will continue. If Twitter does plan to terminate Defendants' access tomorrow, we intend to raise this issue with the Court as well.

Lead Counsel from New York and Delaware remain available today to meet and confer regarding this and the issues raised yesterday.

Best,
Kate

From: Kathryn Bonacorsi
Sent: Thursday, July 21, 2022 12:15 AM
To: Wilson, Bradley R. <BRWilson@wlrk.com>; Emily Kapur <emilykapur@quinnemanuel.com>
Cc: Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>
Subject: RE: Twitter v. Musk

Counsel:

We write in response to this evening's correspondence. Neither the tenor of the call, which was marked by serial attempts by plaintiffs' counsel to cut off defense counsel or make rude remarks, nor the substance of the discussion was at all appropriate or consistent with what is required in this Court. We were surprised that Twitter took the position that the parties cannot even discuss key issues like early dates in the schedule until Mr. Musk proposes a date to serve his answer that Twitter finds acceptable. In short, the call was an utter failure because Twitter refuses to proceed forward, despite having sought expedition.

As to your summary, we disagree with your summary of our call:

- **Trial date:** we believe it would ease the burden on the Court if the parties to worked together to agree to either October 10 or 17 as the start date. We sought to understand whether your side had a conflict with the October 17 date, which we believe is more workable overall, including because of the tight timeline until trial. You refused to answer that question, let alone discuss agreeing to one or the other date, instead telling us you were not on the call with the Court and were not authorized to speak to anyone's schedule. Your position is obviously unproductive because we need to work together on this most basic issue.
- **Pre-Trial Schedule:** Each side provided proposed schedules in advance of the call. We provided ours approximately 40 minutes after you provided yours, and we expected the parties could at least begin to discuss where we might reach agreement and where we could not. Instead, you indicated that you were not willing to discuss the schedule at all. Elevating form over substance, you suggested that you expected us to provide our proposal as redlines to a Word document instead of in the body of an email before you would respond. This absurd request is precisely the type of needless delay that has no place in an expedited case. There is absolutely no reason we cannot discuss proposed dates in whatever format either side proposes them, and we certainly came prepared to discuss your proposed dates. Further, to be clear, we did not say we would provide a counterproposal for an interrogatory limit; we simply said we rejected Twitter's proposed 10-interrogatory limit as it has no basis under the relevant rules. In contrast to your refusal to discuss any of the dates we proposed, we indicated we would take back your request for an earlier answer date and discuss with our team.
- **Ms. Musk Second RFP's 1&2:** We asked about these RFPs because prompt production in response to these RFPs is critical in order for Mr. Musk to have a fair hearing at trial. You responded that we were being unreasonable for asking to speak about them, would not agree to tell us when you would be prepared to speak about them, and instead referred again to Mr. Musk's answer, implying that Twitter may take the position these RFPs are irrelevant. The answer will not bear on these RFPs, and your refusal to even begin to discuss this issue with us is entirely unreasonable in the context of these expedited proceedings. It is evident that after seeking a hyper expedited schedule Twitter is using subterfuge to block progress in discovery. Whatever arguments Twitter has to make about Musk's defenses do not warrant a stay of discovery, particularly given Twitter's request for expedition.
- **Search Terms & Custodians:** There is every reason in this instance, when the Chancellor is unwell and out of the office, for the parties to work together on standard discovery issues in advance of finalizing the trial date. We did not think this would be controversial. The notion that our suggestion that we work on search terms and custodians together to make progress where there is often significant discussion between the parties was somehow unreasonable has no merit. Again, Twitter is blocking reasonable progress for no reason.
- **July 15 Letter:** We explained our position on the July 15 Letter in our July 19 Letter. You did not deny that the documents discussed in the July 15 Letter are available and ready for production, instead asserting that Twitter would produce nothing until after the Answer date is resolved. Having sought expedition, Twitter cannot secure a stay through self-help.
- **Protective Order:** This call would have been the time to address any issues with the Protective Order, but your side came prepared to discuss none, instead pointing to the lack of a protective

order as another reason for delay. We trust you will not raise material issues regarding the Protective Order tomorrow.

In short, all of Twitter's positions are nothing but an artifice for delay, a posture that frankly is surprising given that Twitter sought expedition.

Lead Counsel from New York and Delaware are available for a meet and confer all day tomorrow to try to make progress on these issues. Absent clear progress towards agreement on at least the first portion of the schedule by the end of the day tomorrow, we will seek relief from the Court.

Best,
Kate

From: Wilson, Bradley R. <BRWilson@wlrk.com>
Sent: Wednesday, July 20, 2022 9:57 PM
To: Kathryn Bonacorsi <kathrynbonacorsi@quinnemanuel.com>; Emily Kapur <emilykapur@quinnemanuel.com>
Cc: Andrew J. Rossman <andrewrossman@quinnemanuel.com>; Alex Spiro <alexspiro@quinnemanuel.com>; Christopher Kercher <christopherkercher@quinnemanuel.com>; Silpa Maruri <silpamaruri@quinnemanuel.com>; Matthew Fox <matthewfox@quinnemanuel.com>; Micheletti, Edward B. (Skadden, Arps, Slate, Meagher & Flom LLP) <edward.micheletti@skadden.com>; Rosenello, Lauren N <Lauren.Rosenello@skadden.com>; Shannon, Kevin R. (Potter Anderson & Corroon LLP) <kshannon@potteranderson.com>; Kelly, Christopher N. (Potter Anderson & Corroon LLP) <ckelly@potteranderson.com>; Savitt, William D. <wdsavitt@WLRK.com>; Eddy, Sarah K. <SKEDdy@wlrk.com>; McLeod, Ryan A. <RAMcLeod@wlrk.com>; Reddy, Anitha <AReddy@wlrk.com>; Sadinsky, Alexandra P. <APSadinsky@wlrk.com>
Subject: Twitter v. Musk

[EXTERNAL EMAIL from brwilson@wlrk.com]

Counsel,

Thank you for organizing this evening's meet-and-confer call. We write to summarize the parties' discussions on that call:

1. **Trial Date:** You asked if Twitter would agree to commence trial on October 17 and present that date to the Court jointly. We explained that it is our understanding, based on the parties' recent call to Chambers, that the Court will be getting back to the parties soon with specific trial dates, which will fall either during the week of October 10 or the week of October 17. We told you that while our preference would be to start trial on October 10 (for all of the reasons set forth in our motion papers and presented at the hearing), we did not think it would be prudent to suggest specific dates given the guidance from Chambers.
2. **Pre-Trial Schedule/Answer to Complaint:** You agreed to send a markup of Twitter's proposed pre-trial schedule tomorrow. You previewed that the 10 interrogatory limit included in our proposed schedule is not acceptable and said that you would make a counterproposal as to the limit, which we said we would consider. We also asked that you answer the Complaint by this Friday, July 22, so the parties can properly factor that pleading into their thinking about the

appropriate scope of discovery, in accordance with customary practice. You said that Defendants would not answer on Friday, claiming that our request was unreasonable and suggesting that the Answer would not be illuminative as to the scope of discovery because we should assume that your clients will deny all of the Complaint's allegations. We ask you to reconsider your position and commit to filing your Answer far sooner than you are currently proposing to do (i.e. August 3).

3. **Defendants' Second RFPs (RFPs 1 & 2):** You specifically inquired about Request Nos. 1 and 2 in your clients' second set of RFPs, which you had served only hours before the meet and confer. You stated that your experts need the data sought in those two Requests as soon as possible and asked us to tell you—more or less immediately—our clients' position regarding them. We told you that it was unreasonable to ask us to engage in a substantive discussion about discovery requests served only this afternoon, particularly given that your clients have neither served their Answer nor committed to doing so on any reasonable timeline. You nevertheless asked that we provide Twitter's position on these two requests in "a couple of days," and we told you that we would take that question under advisement.
4. **Search Terms & Custodians:** You asked that we send you Twitter's proposed custodians and search terms tomorrow. We do not believe this is a reasonable request, nor one that is consistent with customary practice in this Court, and we communicated that view on the call. Although we are prepared to cooperate with reasonable discovery requests and work expeditiously to prepare this case for trial by mid-October, there is no basis for you to insist for information of this kind before your clients have Answered; before the parties have finalized a pre-trial schedule; before Twitter has served responses and objections to the relevant RFPs; and before we have held a single meet-and-confer call about the scope of discovery. This is the traditional order of things, even in expedited cases, and you provided no justification on the call for departing from this sensible practice.
5. **July 15 Letter:** You requested that Twitter immediately produce the data and information offered to your clients for in-person review (subject to the enumerated terms and conditions) in the letter sent by Messrs. Korman and Klein on July 15. We explained that the July 15 letter was sent pursuant to the provisions of the Merger Agreement that govern your clients' information rights in connection with the Merger and not in the context of this litigation. We explained that for purposes of this litigation, Twitter would consider any document request seeking the documents described in the July 15 letter and respond to such request in the ordinary course. We further explained that if your clients are interested in reviewing the documents described in the July 15 letter for a proper purpose related to the Merger, you should follow up with Messrs. Korman and Klein.
6. **Protective Order:** You asked that we send you a mark-up of the protective order by tomorrow, and we agreed to do so.

We look forward to receiving your mark-up of the pre-trial schedule.

Regards,
Brad

Bradley R. Wilson

Wachtell, Lipton, Rosen & Katz

51 West 52nd Street | New York, NY 10019

+1 (212) 403-1108 (Direct) | +1 (212) 403-2108 (Fax)

BRWilson@wlrk.com | www.wlrk.com

=====

Please be advised that this transmittal may be a confidential attorney-client communication or may otherwise be privileged or confidential. If you are not the intended recipient, please do not read, copy or re-transmit this communication. If you have received this communication in error, please notify us by e-mail (helpdesk@wlrk.com) or by telephone (call us collect at 212-403-4357) and delete this message and any attachments.


Thank you in advance for your cooperation and assistance.

=====

Defendants' 8/9/22 proposal

	Search Term
1	Elon*
2	<u>JP w/10 (valu* OR deal OR tender OR projecti*)</u>
3	Musk*
4	Spam w/5 user*
5	Spam w/5 bot*
6	<u>MS w/10 (deal OR tender OR transact*)</u>
7	Forecast
8	<u>compromise* w/10 (account OR suspen* OR readonly OR "read only" OR "read-only")</u>
9	Spam w/5 account*
10	Account* w/5 bot*
11	Goldman
12	Merge* <u>f</u>
13	Account* w/5 fake
14	"Morgan Stanley"
15	GS
16	Information w/3 request*
17	Tundra*
18	Mkorman@wsgr.com
19	Sampling
20	JPM
21	Korman
22	Skadden
23	Merge* w/5 agree*
24	KPI
25	Karnataka
26	CPM
27	Spam w/5 fake*
28	Account* w/5 false
29	Concentrix*
30	\$54.20
31	Noah.wintroub@jpmorgan.com
32	Monetize*
33	Join* w/5 board
34	"daily active"
35	Stefani.silverstein@gs.com
36	Kim-thu.posnett@gs.com
37	Financing w/10 debt

Defendants' 8/9/22 proposal

	Search Term
38	Sam.britton@gs.com
39	Spam w/5 false*
40	Eric.menell@jpmorgan.com
41	Marco.j.caggiano@jpmorgan.com
42	SEC w/5 disclos*
43	Lunar*
44	Bill.fox@gs.com
45	Bangalore
46	Spam w/5 auto*
47	Ringler*
48	Financing w/10 equity
49	"Tender offer"
50	Firehose
51	Spam w/5 detect*
52	David.m.gruen@jpmorgan.com
53	Layoff*
54	Andreessen*
55	"Talent acquisition"
56	Mike.ringler@skadden.com
57	"\$315,000,000" OR "\$ 315,000,000" OR "315 million" OR "315 mil" OR "\$315 million" OR "\$315 mil" OR 315M OR \$315M
58	"X Holdings"
59	mDAU w/5 engagement
60	Claassen*
61	CPC
62	mDAU w/5 forecast*
63	mDAU w/5 spam
64	Firing
65	Merge* w/5 approv*
66	Kate.claassen@morganstanley.com
67	New Delhi
68	Swan
69	Consent* w/5 reasonabl*
70	
71	"Project X"
72	ADAP
73	Spam w/5 mal*

Defendants' 8/9/22 proposal

	Search Term
74	Alan.denenberg@davispolk.com
75	mDAU w/5 false
76	"Human review*"
77	Julian.mettmann@morganstanley.com
78	"Quality Analyst"
79	Spiro
80	"Credit facility"
81	"take private"
82	Merge* w/5 discuss*
83	Performance w/10 metric
84	Tender w/5 share*
85	Spam w/5 identif*
86	Hiring w/5 freeze
87	mDAU w/5 estimat*
88	Adeeb.sahar@skadden.com
89	Merge* w/5 negotiat*
90	Anton.mayr@morganstanley.com
91	Spam w/5 activity
92	Anthony.armstrong@morganstanley.com
93	Consent* w/5 (withhold* OR withheld)
94	"retention program"
95	Performance w/10 indicator
96	"real user spam"
97	Spam w/5 bulk
98	Spam w/5 behavior
99	Spam w/5 profile*
100	"lay off"
101	Steve.weiner@morganstanley.com
102	Tango*
103	Gracias
104	"profile not found"
105	"seller friendly"
106	"seller-friendly"
107	Financial w/10 metric
108	"false accounts"
109	Sonia.nijjar@skadden.com
110	"compensation committee" w/15 retention
111	Depart* w/10 Falck

Defendants' 8/9/22 proposal

	Search Term
112	Birchall
113	mDAU w/5 bot*
114	Dohyun.kim@skadden.com
115	"blocking order"
116	Terminat* w/10 Falck
117	"Information right*"
118	Consent w/3 right*
119	Excession
120	mDAU w/5 impressionsimpression*
121	mDAU w/5 restate*
122	Spam w/5 malware
123	Hiring w/5 pause
124	"cash flow projections"
125	"company case"
126	Hiring w/5 slowdown
127	User-day
128	[REDACTED]
129	Spam* w/5 audit*
130	"Human label*"
131	Beth.lebow@davispolk.com
132	mDAU w/5 audit*
133	[REDACTED]
134	Financial w/10 indicator
135	Alexspiro@quinnemanuel.com
136	mDAU w/5 fake
137	mDAU w/5 traffic
138	Stephen.salmon@davispolk.com
139	Fir* w/10 Falck
140	[REDACTED]
141	Laura.Kaufmann@skadden.com
142	"Contractor agent"
143	Tugboat*
144	Fir* w/10 Beykpour
145	Depart* w/10 Beykpour
146	[REDACTED]
147	[REDACTED]
148	Spam w/5 phish
149	Terminat* w/10 Lane

Defendants' 8/9/22 proposal

	Search Term
150	Alex.moss@davispolk.com
151	Swan's
152	Terminat* w/10 Beykpour
153	Classen*
154	Korman's
155	[REDACTED]
156	"Recruiting staff"
157	[REDACTED]
158	Labeller
159	Spiro's
160	[REDACTED]
161	"additive targeting"
162	"restrictive targeting"
163	<u>mDAU w/5 scam /10 (account OR bot* OR false OR spam)</u>
164	Resign* w/10 Beykpour
165	Resign* w/10 Falck
166	[REDACTED]
167	[REDACTED]
168	<u>Bonus /5 (target* OR goal* OR metric* OR fund*)</u>
169	<u>TYTT</u>
170	<u>"too young to tell"</u>
171	<u>Suspen* /10 (workflow OR spam OR false OR misinfo* OR "false positive" OR FP)</u>
172	<u>"platform integrity" /25 (suspen* OR spam OR false)</u>
173	<u>"platform manipulation" /25 (suspen* OR spam OR false)</u>
174	<u>Appen /25 (label* OR review* OR audit OR spam)</u>
175	<u>(phish* OR malware OR bulk) /10 (account OR mDAU OR bot)</u>
176	<u>MAU</u>
177	<u>UAM</u>
178	<u>User w/5 minutes</u>
179	<u>Stickiness</u>
180	<u>ad* w/10 ineligib*</u>

CERTIFICATE OF SERVICE

I, Edward B. Micheletti, hereby certify that on September 28, 2022, a Redacted Version of Exhibits E-H to Letter to The Honorable Kathaleen St. J. McCormick from Edward B. Micheletti, Esquire pursuant to paragraph 14(d) of the Court's Order Governing Case Schedule Compelling Twitter, Inc. to Produce Discovery From Defendants' Requested Date Range was served electronically via File & ServeXpress upon the following counsel of record:

Peter J. Walsh, Jr. (ID No. 2437)
Kevin R. Shannon (ID No. 3137)
Christopher N. Kelly (ID No. 5717)
Mathew A. Golden (ID No. 6035)
Callan R. Jackson (ID No. 6292)
Justin T. Hymes (ID No. 6671)
POTTER ANDERSON
& CORROON LLP
1313 North Market Street
Hercules Plaza, 6th Floor
Wilmington, Delaware 19801
(302) 984-6000

*Attorneys for Plaintiff and
Counterclaim Defendant Twitter, Inc.*

David J. Margules (ID No. 2254)
Elizabeth A. Sloan (ID No. 5045)
Elizabeth S. Fenton (ID No. 5563)
Jessica C. Watt (ID No. 5932)
Brittany M Giusini (ID No. 6034)
BALLARD SPAHR LLP
919 North Market Street, 11th Floor
Wilmington, Delaware 19801
(302) 252-4465

*Attorneys for Plaintiff and
Counterclaim Defendant Twitter, Inc.*

Jacob R. Kirkham (ID No. 5768)
KOBRE & KIM LLP
600 North King Street, Suite 501
Wilmington, Delaware 19801
(302) 518-6460

*Attorneys for Plaintiff and
Counterclaim Defendant Twitter, Inc.*

Brad D. Sorrels (ID No. 5233)
Daniyal M. Iqbal (ID No. 6167)
Leah E. León (ID No. 6536)
WILSON SONSINI GOODRICH
& ROSATI, P.C.
222 Delaware Avenue, Suite 800
Wilmington, Delaware 19801
(302) 304-7600

*Attorneys for Plaintiff and
Counterclaim Defendant Twitter, Inc.*

Robert A. Weber (ID No. 4013)
Joseph B. Cicero (ID No. 4388)
Elliott Covert (ID No. 6540)
CHIPMAN BROWN CICERO
& COLE, LLP
Hercules Plaza
1313 North Market Street, Suite 5400
Wilmington, Delaware 19801
(302) 295-0191

*Attorneys for Defendants and
Counterclaim-Plaintiffs
Elon R. Musk, X Holdings I, Inc.,
and X Holdings II, Inc.*

/s/ Edward B. Micheletti
Edward B. Micheletti (ID No. 3794)